

# **THE NORTHERN IRELAND PEACE PROCESS: POLICING ADVANCES AND REMAINING CHALLENGES**

---

## **JOINT HEARING**

BEFORE THE

SUBCOMMITTEE ON AFRICA, GLOBAL HUMAN  
RIGHTS AND INTERNATIONAL OPERATIONS

AND THE

SUBCOMMITTEE ON EUROPE AND  
EMERGING THREATS

OF THE

**COMMITTEE ON  
INTERNATIONAL RELATIONS  
HOUSE OF REPRESENTATIVES**

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

---

MARCH 15, 2006

---

**Serial No. 109-152**

---

Printed for the use of the Committee on International Relations



Available via the World Wide Web: [http://www.house.gov/international\\_relations](http://www.house.gov/international_relations)

---

U.S. GOVERNMENT PRINTING OFFICE

26-650PDF

WASHINGTON : 2006

---

For sale by the Superintendent of Documents, U.S. Government Printing Office  
Internet: [bookstore.gpo.gov](http://bookstore.gpo.gov) Phone: toll free (866) 512-1800; DC area (202) 512-1800  
Fax: (202) 512-2250 Mail: Stop SSOP, Washington, DC 20402-0001

COMMITTEE ON INTERNATIONAL RELATIONS

HENRY J. HYDE, Illinois, *Chairman*

JAMES A. LEACH, Iowa	TOM LANTOS, California
CHRISTOPHER H. SMITH, New Jersey, <i>Vice Chairman</i>	HOWARD L. BERMAN, California
DAN BURTON, Indiana	GARY L. ACKERMAN, New York
ELTON GALLEGLY, California	ENI F.H. FALEOMAVAEGA, American Samoa
ILEANA ROS-LEHTINEN, Florida	DONALD M. PAYNE, New Jersey
DANA ROHRABACHER, California	SHERROD BROWN, Ohio
EDWARD R. ROYCE, California	BRAD SHERMAN, California
PETER T. KING, New York	ROBERT WEXLER, Florida
STEVE CHABOT, Ohio	ELIOT L. ENGEL, New York
THOMAS G. TANCREDO, Colorado	WILLIAM D. DELAHUNT, Massachusetts
RON PAUL, Texas	GREGORY W. MEEKS, New York
DARRELL ISSA, California	BARBARA LEE, California
JEFF FLAKE, Arizona	JOSEPH CROWLEY, New York
JO ANN DAVIS, Virginia	EARL BLUMENAUER, Oregon
MARK GREEN, Wisconsin	SHELLEY BERKLEY, Nevada
JERRY WELLER, Illinois	GRACE F. NAPOLITANO, California
MIKE PENCE, Indiana	ADAM B. SCHIFF, California
THADDEUS G. McCOTTER, Michigan	DIANE E. WATSON, California
KATHERINE HARRIS, Florida	ADAM SMITH, Washington
JOE WILSON, South Carolina	BETTY MCCOLLUM, Minnesota
JOHN BOOZMAN, Arkansas	BEN CHANDLER, Kentucky
J. GRESHAM BARRETT, South Carolina	DENNIS A. CARDOZA, California
CONNIE MACK, Florida	RUSS CARNAHAN, Missouri
JEFF FORTENBERRY, Nebraska	
MICHAEL McCaul, Texas	
TED POE, Texas	

THOMAS E. MOONEY, Sr., *Staff Director/General Counsel*

ROBERT R. KING, *Democratic Staff Director*

SUBCOMMITTEE ON AFRICA, GLOBAL HUMAN RIGHTS AND INTERNATIONAL OPERATIONS

CHRISTOPHER H. SMITH, New Jersey, *Chairman*

THOMAS G. TANCREDO, Colorado  
JEFF FLAKE, Arizona  
MARK GREEN, Wisconsin  
JOHN BOOZMAN, Arkansas  
JEFF FORTENBERRY, Nebraska  
EDWARD R. ROYCE, California,  
*Vice Chairman*

DONALD M. PAYNE, New Jersey  
GREGORY W. MEEKS, New York  
BARBARA LEE, California  
DIANE E. WATSON, California  
BETTY MCCOLLUM, Minnesota  
EARL BLUMENAUER, Oregon

MARY M. NOONAN, *Subcommittee Staff Director*  
GREG SIMPKINS, *Subcommittee Professional Staff Member*  
NOELLE LUSANE, *Democratic Professional Staff Member*  
SHERI A. RICKERT, *Subcommittee Professional Staff Member and Counsel*  
LINDSEY M. PLUMLEY, *Staff Associate*

---

SUBCOMMITTEE ON EUROPE AND EMERGING THREATS

ELTON GALLEGLY, California, *Chairman*

JO ANN DAVIS, Virginia  
PETER T. KING, New York, *Vice Chairman*  
THADDEUS G. McCOTTER, Michigan  
DARRELL ISSA, California  
TED POE, Texas  
J. GRESHAM BARRETT, South Carolina

ROBERT WEXLER, Florida  
ELIOT L. ENGEL, New York  
JOSEPH CROWLEY, New York  
SHELLEY BERKLEY, Nevada  
GRACE F. NAPOLITANO, California  
ADAM B. SCHIFF, California

RICHARD MEREU, *Subcommittee Staff Director*  
JONATHAN KATZ, *Democratic Professional Staff Member*  
PATRICK PRISCO, *Professional Staff Member*  
BEVERLY RAZON, *Staff Associate*



## C O N T E N T S

---

	Page
<b>WITNESSES</b>	
The Honorable Mitchell B. Reiss, Special Envoy of the President and the Secretary of State for the Northern Ireland Peace Process, U.S. Department of State .....	9
The Right Honorable Sir Desmond Rea, Chairman, Northern Ireland Policing Board .....	23
Ms. Jane Winter, Director, British Irish Rights Watch .....	38
Ms. Archana Pyati, Senior Associate, Human Rights Defenders Program, Human Rights First .....	58
Ms. Maggie Beirne, Director, Committee for the Administration of Justice .....	65
<b>LETTERS, STATEMENTS, ETC., SUBMITTED FOR THE HEARING</b>	
The Honorable Christopher H. Smith, a Representative in Congress from the State of New Jersey, and Chairman, Subcommittee on Africa, Global Human Rights and International Operations: Prepared statement .....	5
The Honorable Elton Gallegly, a Representative in Congress from the State of California, and Chairman, Subcommittee on Europe and Emerging Threats: Prepared statement .....	87
The Honorable Mitchell B. Reiss: Prepared statement .....	12
The Right Honorable Sir Desmond Rea and Mr. Denis Bradley, Vice Chairman, Northern Ireland Policing Board: Prepared statement .....	28
Ms. Jane Winter: Prepared statement .....	44
Ms. Archana Pyati: Prepared statement .....	60
Ms. Maggie Beirne: Prepared statement .....	70



## **THE NORTHERN IRELAND PEACE PROCESS: POLICING ADVANCES AND REMAINING CHALLENGES**

---

**WEDNESDAY, MARCH 15, 2006**

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON AFRICA, GLOBAL HUMAN RIGHTS  
AND INTERNATIONAL OPERATIONS, AND  
SUBCOMMITTEE ON EUROPE AND EMERGING THREATS,  
COMMITTEE ON INTERNATIONAL RELATIONS,  
*Washington, DC.*

The Subcommittees met, pursuant to notice, at 2:58 p.m. in room 2172, Rayburn House Office Building, Hon. Christopher H. Smith (Chairman of the Subcommittee on Africa, Global Human Rights and International Operations) presiding.

Mr. SMITH OF NEW JERSEY. The Subcommittee will come to order, and good afternoon, everybody.

Let me begin at the outset by apologizing for the delay in initiating this proceeding. As I think all of you know, the newly-elected President of Liberia just addressed a joint session of Congress. This was not scheduled when this hearing was scheduled. So again, I want to express my apology to our witnesses and to all of you who are here for that delay.

First of all, let me begin by saying this hearing will help the United States Congress and the American people better understand the current issues in the always-complex situation in Northern Ireland, and to help guide our efforts as we continue to assist in the realization of a durable peace, and the guarantee of fundamental human rights in Northern Ireland.

The establishment of peace, justice, and prosperity in Northern Ireland, which we all hoped, worked, and prayed for, is still not a reality. There are many encouraging signs, however, but there are also some disturbing ones as well. And we are still not there yet.

Today's hearing, for the record, is my 11th hearing on Northern Ireland in not quite just 9 years, and we will continue to follow the events of Northern Ireland closely and encourage reform for as long as it takes.

Let me just say at this point that 7 years ago today, one of our witnesses, Rosemary Nelson, a very distinguished and very brave defense attorney from Northern Ireland who sat, Ambassador Reiss, right where you sat, and gave riveting testimony about how her life was threatened by the Royal Ulster Constabulary (RUC). She told all of us when we visited in Belfast that they had threat-

ened her over and over again, through her clients as well as directly, that she would be killed.

Sure enough, about 6 months after she testified here on this day, 7 years ago, she was killed by a car bomb.

I would like to begin this hearing, frankly, by just offering a moment of prayer and silence for her, for her family, because she was truly a brave and heroic woman. If we could just take a moment of silence.

[Pause.]

Mr. SMITH OF NEW JERSEY. Thank you very much. Let me continue by saying that one of the most encouraging developments that we have seen over the last few months is the Irish Republican Army's (IRA) renunciation of armed struggle, and the decommissioning of its weapons, a remarkable step in the path to peace. The IRA must follow through on its proclamations, and cease all criminal activities, as well.

The most disturbing factor, however, is the alienation of the Unionist community. The large majority of decent people on the Unionist side, who hope for peace as ardently as nationalists, are skeptical of IRA promises. They are also terrorized by their own paramilitaries. Those paramilitaries need to follow the IRA example, and disarm, and disarm now, and cease their criminal activities. They are right now one of the greatest dangers to peace and to stability.

The Government of the United Kingdom has begun all party negotiations to restore the Northern Ireland Assembly and the power-sharing executive. It is also preparing legislation to devolve the administration of justice and policing to a restored Northern Irish executive.

Mitchell Reiss, President Bush's Special Envoy to the Northern Ireland Peace Process, will brief us in a moment on the current prospects and challenges facing the restoration of self-government in Northern Ireland.

There has been some progress in the continuing reform of Northern Ireland's police force. Nearly 7 years ago I chaired a hearing on policing Northern Ireland that included Christopher Patten, who had just released the famous report that bears his name. He testified, and pointed out that he had some 175 recommendations that he thought would usher in a more transparent Northern Ireland police.

As we all know, there is a new police force, the Policing Service of Northern Ireland, or the PSNI. And there is a vigorous and fiercely independent Police Ombudsman's Office, whose chief, Nuala O'Loane, has been a catalyst for reform. She, too, has testified before our Committee. We applaud her Herculean efforts on behalf of reform there, as well as overseeing, as she should, as part of her mandate.

The Police Ombudsman's Office has been recognized by all as an effective mechanism for holding the police in Northern Ireland accountable, and helping people develop some confidence in the policing service that has faced credible charges of collusion in crime and assassination.

In fact, a poll conducted in March of last year showed that public confidence in the Ombudsman's Office and the objectivity of that

office was high, with 78 percent of respondents saying they were confident that complaints were dealt with impartially.

There is now also, as we know, for a few years and counting, a Policing Board in Northern Ireland composed of independent and party representatives, and designed to provide civilian control, and fair, nonsectarian policing. There are district police partnerships to guarantee that both police and the communities they guard guarantee that the role of the police is to protect the community, not to impose some form of political control.

The Patten Commission also envisioned a police force more representative of the whole community. Although Northern Ireland is nearly 45 percent Catholic, the old police force, the Royal Ulster Constabulary, or the RUC, was over 90 percent Protestant, and often seemed to function more as an auxiliary to Loyalist paramilitaries than to uphold law and order.

Today, recruits in the PSNI are supposed to be 50 percent Catholic, so that in time the police will hopefully be representative of the people they are supposed to protect. Now only 20 percent of the police force is Catholic. It is an improvement, but it is only a start.

In the disturbing riots last fall and summer by the Unionists, the police vigorously enforced the law, instead of standing aside, as they often did before. This again is a very hopeful sign.

But questions remain about “bad apples,” and that was Chris Patten’s term for it, who may still remain somewhere in the ranks of Northern Ireland’s police force, and about Special Branch members. I hope we will hear today what has been done to purge such elements.

The United States Congress has long understood the importance of supporting police reform and community reconciliation in Northern Ireland. As the author of the Foreign Relations Authorization Act for 2000/2001, H.R. 3427, I have been particularly interested in training and/or exchange programs conducted by the FBI or other law enforcement agencies for the RUC, or now the PSNI. In fact, it was my legislation that suspended all FBI-RUC training until 2001, when President Bush certified that the human rights and vetting standards established by the legislation were implemented in the program.

In this year’s State Department Authorization Bill, which I also sponsored, which passed the House 351 to 78, I included funds to provide specialized investigative training for personnel in the office of the Police Ombudsmen to ensure that policing Northern Ireland is carried out in compliance with internationally-recognized human rights standards.

We also amended the authorization for the International Fund for Ireland (IFI) to provide up to \$7 million for programs that enhance relations between the communities, and between the police and the communities they serve, promote human rights training for police, enhance peaceful mediation in neighborhoods of continuing conflict, promote training programs to enhance new district partnership police boards, and assist in the transition of former British military installations and prisons, into sites for peaceful community-supported activities, such as housing, retail and commercial development. We hope that the Senate will soon act on this important legislation.

Also, let me point out that the Foreign Operations Bill, which did pass the House and Senate and signed by President Bush, specifically allows the IFI to use United States contributions to be used for training police to promote human rights and the rule of law, and to foster improved relations between police and the communities that they serve.

One remaining area of great concern are the more than 3,000 unsolved murders between 1969 and the signing of the Good Friday Agreements in 1998. Punishment of the guilty in many cases may not be possible, because of previous amnesties which had been granted to promote peace in Northern Ireland.

But true peace and true democracy cannot be founded on lies and cover-ups. An integral part of police reform is the investigation of police and government collusion in past criminal acts. Only the truth can guarantee that Northern Ireland's new police force is established on the sound basis of respect for law and justice, something the previous force, the IUC, could never claim. Only the truth can guarantee that people of Northern Ireland accept their police as legitimate.

The government, I am happy to say, has recently established or instituted the Historical Inquiries Team to investigate and resolve these cases. This has the potential of operating with transparency and openness, to be a critical helpful step. Time will tell.

Meanwhile, there are several cases which require special attention. The British and Irish Governments in 2001 jointly appointed Judge Peter Cory, who also testified before one of our Committees, and is a wonderful, pre-eminent retired Justice of the Supreme Court of Canada, to determine whether independent commissions should investigate possible state-sponsored collusion in six notorious and horrific murders. They also pledge to abide by his recommendations.

Two years ago Judge Cory issued his report, and called for five of the six murders to be investigated independently. Yet the British Government has still not appointed an inquiry commission into the murder of human rights attorney Patrick Finucane, who was gunned down in his home in front of his wife and three small children in 1989.

Every one of our past 10 hearings that I have chaired on human rights and police reform in Northern Ireland has dealt with Patrick Finucane's murder. Yet still nothing has been done. The Government of the U.K. must find a way to institute a credible inquiry which will be accepted by all, especially the Finucane family.

The British Government has finally begun its inquiry commission, as demanded by Judge Cory, into police misconduct in the murder of Rosemary Nelson—as I said, another heroic human rights lawyer, mother of three, who fell victim to a car bomb in 1999. Rosemary, 6 months after she testified, as I pointed out in the beginning, was killed in that assassination.

If the population of Northern Ireland is to cease relying on paramilitaries for protection, and transfer its trust to the police, it must have confidence that the police and the authorities deserve trust. These inquiries need to be done, and done well, and they need to be done now.

Finally, although political reform and police reform are absolute preconditions for all progress, only economic development can finally end the terrible poverty among Catholics and Protestants, nationalists and unionists, which helps to breed the violence. Fully employed, prosperous and prospering people who can see tomorrow as better than today rarely attack their neighbors.

The Catholic and nationalist community, although worried, look to the fulfillment of the Good Friday Agreement with great hope. Too many in the unionist community, unfortunately, have been exploited by extremists to look upon all gains by Catholics as setbacks for themselves; that all jobs that Catholics get are jobs that they lose. Only economic development can provide the jobs, housing, and public services that all the people of Northern Ireland, in both communities, need for a better life.

We have continued to support the International Fund for Ireland for both 2006 and 2007, not only to promote police reform, as I mentioned above, but also to do the exemplary work that they have done to promote economic development, which is critical to achieving a just and a lasting peace.

Now that we are near to success, this is no time to falter in our efforts. The IFI has played a vital role in economic progress in Northern Ireland. The United States contributed over half of the total funds, about \$400 million in the past 20 years, and I hope it has helped.

In the 1990s Northern Ireland's unemployment rate fell by 40 percent. The fund has created nearly 38,000 jobs. But the IFI does not only fund material progress, and its greatest achievements are not material. It has also developed a series of community building programs, promoting greater dialogue and understanding between Catholic and Protestant, including leadership programs designed to develop a new generation of leaders in Northern Ireland to bring about a more peaceful and prosperous future in the region.

Young people are the key to the future everywhere, but in Northern Ireland they are absolutely crucial to breaking the cycle of discrimination and sectarian violence once and for all. For this reason, our authorization bill continues support for Project Children to bring together Catholic and Protestant participants from the Republic of Ireland, the United Kingdom, and the United States, to help build peace in Northern Ireland through its children and its young people.

I would like to now turn to my friend and colleague from Florida for any opening comments he might have.

[The prepared statement of Mr. Smith follows:]

PREPARED STATEMENT OF THE HONORABLE CHRISTOPHER H. SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY AND CHAIRMAN, SUB-COMMITTEE ON AFRICA, GLOBAL HUMAN RIGHTS AND INTERNATIONAL OPERATIONS

The Subcommittee will come to order, and good afternoon to everyone.

This hearing will help the U.S. Congress and American people better understand the current issues in the always complex situation in Northern Ireland and help guide our efforts as we continue to seek to assist in the realization of a durable peace and the guarantee of fundamental human rights in Northern Ireland.

The establishment of peace, justice and prosperity in Northern Ireland, which we have all hoped, worked and prayed for, is still not a reality. There are many encouraging signs, but also disturbing ones, and we are still not there yet. Today's hearing is my eleventh hearing on Northern Ireland in not quite nine years, and we shall

continue to follow the events on Northern Ireland closely and encourage reform for as long as necessary.

One of the most encouraging developments is, of course, the IRA's renunciation of armed struggle, and the decommissioning of its weapons—a remarkable step in the path to peace. The IRA must follow through on its proclamations, and cease all criminal activities as well. The most disturbing factor, however, is the alienation of the Unionist community. The large majority of decent people on the Unionist side, who hope for peace as ardently as nationalists, are skeptical of IRA promises. They are also terrorized by their own paramilitaries. Those paramilitaries need to follow the IRA example, and disarm, and cease their criminal activities. They are right now one of the greatest dangers to peace and stability.

The Government of the United Kingdom has begun all party negotiations to restore the Northern Ireland Assembly and the power sharing executive. It is also preparing legislation to devolve the administration of justice and policing to a restored Northern Irish executive.

Mitchell Reiss, President Bush's Special Envoy the Northern Ireland Peace Process will brief us on the current prospects and challenges facing the restoration of self-government in Northern Ireland.

There has been some progress in the continuing reform of Northern Ireland's police force. Nearly seven years ago I chaired a hearing on policing in Northern Ireland. Chris Patten, who had just released the famous report that bears his name, testified before us. Now we shall have a chance to hear about the progress that has been made in implementing the 175 recommendations made by the Patten Report.

There is a new police force, the Policing Service of Northern Ireland (PSNI); there is a vigorous and fiercely independent Police Ombudsman's Office, whose chief, Nuala O'Loane, has been a catalyst for reform. The Police Ombudsman's office has been recognized as an effective mechanism for holding the police in Northern Ireland accountable and helping people develop some confidence in a policing service that has faced credible charges of collusion in crime and assassination. In fact a poll conducted in March of last year showed that public confidence in the Ombudsman's objectivity was high with 78% of respondents saying they were confident that complaints were dealt with impartiality.

There is now a Policing Board in Northern Ireland, composed of independent and party representatives designed to provide civilian control, and fair, nonsectarian policing. There are district police partnerships, to guarantee that both police and the communities they guard understand that the role of the police is to protect the community, not to impose some form of political control.

The Patten Commission also envisioned a police force more representative of the whole community. Although Northern Ireland is nearly 45% Catholic, the old police force, the Royal Ulster Constabulary (RUC), was over 90% Protestant, and often seemed to function more as an auxiliary to loyalist paramilitaries than the upholder of law and order. Today, recruits to PSNI are supposed to be 50% Catholic, so that in time the police will hopefully be representative of the people they are supposed to protect. Now only 20% of the police force is Catholic. It's an improvement, but only a start. In the disturbing riots last fall and summer by unionists, the police vigorously enforced the law instead of standing aside as they often did before. This again is a hopeful sign.

But questions remain about "bad apples" who may still remain somewhere in the ranks of Northern Ireland's police and about Special Branch members. I hope we will hear today what has been done to purge such elements.

The U.S. Congress has long understood the importance of supporting police reform and community reconciliation in Northern Ireland. As the author of the Foreign Relations Authorization Act for FY 2000–2001 (HR 3427; Public Law 106–113), I have been particularly interested in training and exchange programs conducted by the Federal Bureau of Investigation or other Federal law enforcement agencies for the RUC, now PSNI. In fact it was my legislation that suspended all FBI-RUC training until 2001, when President Bush certified that the human rights and vetting standards established by my legislation were implemented in the program.

In this year's State Department Authorization Bill, which I sponsored and which passed the House overwhelmingly (351–78), I included funds to provide specialized investigative training for personnel in the office of the Police Ombudsman to ensure that policing in Northern Ireland is carried out in compliance with internationally recognized human rights standards.

We also amended the authorization for the International Fund for Ireland (IFI) to provide up to \$7 million for programs that enhance relations between communities, and between the police and the communities they serve, promote human rights training for police, enhance peaceful mediation in neighborhoods of continued conflict, promote training programs to enhance the new district partnership police

boards, and assist in the transition of former British military installations and prisons into sites for peaceful, community-supported activities, such as housing, retail, and commercial development. We hope the Senate will act soon on this important legislation. The Foreign Operations Appropriations Bill (now Public Law 109–102) specifically allows the IFI to use the U.S. contribution to be used for training police to promote human rights and rule of law, and to foster improved relations between police and the communities they serve.

But one remaining area of great concern are the more than 3,000 unsolved murders between 1969 and the signing of the Good Friday agreement in 1998. Punishment of the guilty in many cases may not be possible, because of previous amnesties which have been granted to promote peace in NI. But true peace and true democracy, cannot be founded on lies and cover-ups. An integral part of police reform is investigation of police and government collusion in past criminal acts. Only the truth can guarantee that Northern Ireland's new police force is established on a sound basis of respect for law and justice, something the previous force, the RUC could never claim. Only the truth can guarantee that the people of Northern Ireland accept their police as legitimate.

The government has recently instituted the Historical Enquiries Team to investigate and resolve these cases. This has the potential—if operated with transparency and openness—to be a critical, helpful step. Time will tell.

Meanwhile, there are several cases which require special attention. The British and Irish governments in 2001 jointly appointed Judge Peter Cory, a pre-eminent retired justice of the Supreme Court of Canada to determine whether independent commissions should investigate possible state sponsored collusion in six notorious and horrific murders. They also pledged to abide by his recommendations. Two years ago Judge Cory issued his report, and called for five of the six murders to be investigated independently.

Yet the British government has still not appointed an inquiry commission into the murder of the human rights attorney Patrick Finucane, who was gunned down in his home, in front of his wife and three small children, in 1989. Every one of the past ten hearings I have chaired on human rights and police reform in Northern Ireland has dealt with Patrick Finucane's murder. Yet still nothing has been done. The government of the UK must find a way to institute a credible inquiry which will be accepted by all, especially the Finucane family.

The British government has finally begun its inquiry commission, as demanded by Judge Cory, into police misconduct in the murder of Rosemary Nelson, another heroic human rights lawyer, and mother of three, who fell victim to a car bomb in March 1999. Rosemary, six months earlier had testified before my Committee about the harassment, intimidation and threats made against her by the RUC. No one has ever been charged in her murder. That inquiry was finally begun on April 19, but has made little progress so far, and serious questions remain as to whether the investigation is being conducted properly.

If the population of Northern Ireland is to cease relying on paramilitaries for protection, and transfer its trust to the police, it must have confidence that the police and the authorities deserve trust. These inquiries need to be done, and done well, as soon as possible.

Finally, although political reform and police reform are absolute pre-conditions for all progress, only economic development can finally end the terrible poverty, among both Catholics and Protestants, nationalists and unionists, which helps breed the violence. Fully employed, prosperous and prospering people, who can see tomorrow as better than today, rarely attack their neighbors. The Catholic and nationalist community, although worried, looks on the fulfillment of the Good Friday agreements with great hope. Too many in the unionist community, unfortunately, have been exploited by extremists to look upon all gains by Catholics as setbacks for themselves, that all jobs that Catholics get, as jobs that they lose. Only economic development can provide the jobs, the housing, the public services that all the people of Northern Ireland, in both communities, need for a better life.

We have continued our support (13.5 million in 2006) for the International Fund for Ireland for both 2006 and 2007, not only to promote police reform, as I mentioned above, but also to promote economic development which is critical to achieving a just and lasting peace. Now that we are near to success, this is no time to falter in our efforts. The IFI has played a vital role in economic progress in NI. The US has contributed over half of the total fund, about \$400 million in the past twenty years. And it has helped. In the 1990's Northern Ireland's unemployment fell by 40%. The Fund has created nearly 38,000 jobs. But the IFI does not only fund material progress, and its greatest achievements are not material: it has also developed a series of community building programs, promoting greater dialogue and understanding between Catholic and Protestant, including leadership programs designed

to develop a new generation of leaders in NI to bring about a more peaceful and prosperous future in the region. Young people are the key to the future everywhere, but in NI they are absolutely crucial to breaking the cycle of discrimination and sectarian violence once and for all. For this reason our authorization bill continues support for "Project Children," to bring together Catholic and Protestant participants from the Republic of Ireland, the United Kingdom, and the United States, to help build peace in Northern Ireland through its children and young people.

**Mr. WEXLER.** Thank you very much. I want to associate myself with the remarks of Chairman Smith. I also want to thank him and Chairman Gallegly for calling today's hearing, as well as thanking Mr. Reiss for appearing before us, as well as the other distinguished witnesses.

Mr. Chairman, you have given a very comprehensive statement. I would like to just point out quickly a few items.

While there has been undoubtedly significant progress in Northern Ireland, both economically and politically, since the Belfast Agreement was signed in 1998, the promise of long-term reconciliation and reform has not fully materialized, despite the very genuine efforts in London and Dublin, as well as the Clinton and Bush Administrations.

We are now at a critical juncture in this process, where a devolved Northern Ireland assembly and its executive branch remain dormant, and outstanding issues still remain, including police reform and the disbanding of all paramilitary groups.

One of the keys to ending the deadlock in Northern Ireland is full implementation of the policing reforms, and transition to the Police Service of Northern Ireland, the PSNI, as you said, Mr. Chairman. In Mr. Reiss's testimony before the Europe Subcommittee last May, he very eloquently stated that substantial progress has been made in policing reform to ensure oversight and accountability, and that the PSNI has successfully implemented a policy requiring that new recruits be evenly split between Catholics and non-Catholics.

In addition, according to Police Oversight Commissioner Al Hutchinson, it is my understanding that 114 out of the 175 police reform recommendations made by the Patten Commission in 1999 have, in fact, been implemented.

Despite, however, this implementation, there are several outstanding issues relating to restoring trust and reconciliation between Republicans and Unionists, including the transfer of police and justice powers from the British to the restored Northern Ireland Assembly and Executive, the unresolved status of several high-profile murder cases from the eighties and nineties, as the Chairman mentioned, and Sinn Fein's decision not to participate in the 19-member Policing Board.

I am hopeful that recent steps taken by London, including the recently-introduced Northern Ireland Bill, which transfers policing and justice powers, will help pave the way for Sinn Fein to join the Policing Board.

Mr. Chairman, the relative tranquility and economic success the people of Northern Ireland are enjoying is deeply encouraging. However, issues at the core of the conflict remain unresolved and require greater attention from the international community. And in this vein, I strongly, strongly recommend that the United States continue playing its historic role in bringing both Republicans and

Unionists together in support of the efforts of the British and Irish Governments.

Mr. Chairman, this is a very timely-called hearing, and I thank you for allowing us to participate.

Mr. SMITH OF NEW JERSEY. Mr. Wexler, thank you very much. And without objection, the statement of Mr. Payne will be made a part of the record, as well.

Let me just now welcome our very distinguished leader, and I will introduce him formally. Mr. Reiss, who was nominated by President Bush to the position of Special Envoy of the President and the Secretary of State for the Northern Ireland Peace Process, on March 16, 2004.

Ambassador Reiss is currently Vice Provost for International Affairs at the College of William and Mary in Williamsburg, Virginia. From 2003 to 2005, he served as Director of the Office of Policy Planning at the U.S. Department of State, where he provided Secretary of State Colin Powell with independent strategic advice and recommendations on American foreign policy.

Ambassador Reiss has written two books on international security, has contributed to 15 others, and has published over 80 articles and reviews. A very distinguished diplomat, and thank you so much for being here. Ambassador Reiss, the floor is yours.

**STATEMENT OF THE HONORABLE MITCHELL B. REISS, SPECIAL ENVOY OF THE PRESIDENT AND THE SECRETARY OF STATE FOR THE NORTHERN IRELAND PEACE PROCESS, U.S. DEPARTMENT OF STATE**

Mr. REISS. Mr. Chairman, Members of the Committee, distinguished guests, thank you very much for the opportunity to speak with you again today about progress in the Northern Ireland peace process.

With your permission, Mr. Chairman, I would like to submit a formal statement for the record, and then just offer a brief summary.

Mr. SMITH OF NEW JERSEY. Without objection, Mr. Ambassador, your statement will be made a part of the record.

Mr. REISS. Thank you. Quite a lot has occurred since I testified last year. When reviewing the last 18 months, we should be encouraged by the trajectory of the peace process, although we still face some obstacles, including a basic lack of trust between the two main political parties.

To recap briefly. In September 2004, the British and Irish Governments, with strong support from President Bush, started a political process at Leeds Castle in England. These talks came very close to reaching an agreement, only to fall apart at the last moment in December 2004.

Less than 2 weeks after the talks collapsed, the IRA pulled off one of the largest bank robberies in UK history. It was clear that planning for the bank robbery had to have taken place during the negotiations. For Ian Paisley and the Democratic Unionist Party, the DUP, this called into question Sinn Fein's sincerity. How could it negotiate a peace on the one hand, and allow the IRA to plan a bank heist on the other?

A few weeks after the bank robbery there was a brutal murder of a young man named Robert McCartney outside a Belfast pub. The aftermath of this murder had all the hallmarks of an IRA operation. All of the forensic evidence, including the murder weapon, the tape in the closed-circuit TV camera in the pub, and fingerprints were eliminated. Witnesses in the pub were discouraged from giving useful evidence to the police. The McCartney family and friends were subsequently intimidated by people alleged to be members of the IRA.

On St. Patrick's Day last year, Irish-Americans gave voice to their frustration at the IRA's ongoing activities, and its burden on the people of Northern Ireland and the peace process. Sinn Fein's leader, Gerry Adams, heard that message and used it.

Three weeks after St. Patrick's Day, he called on the IRA to go out of business. In July the IRA announced that it would foreswear violence, and rely on purely peaceful and democratic means. In the fall, the IRA decommissioned a substantial portion of its weapons arsenal.

In February 2006, just last month, the IMC, the Independent Monitoring Commission, concluded that the IRA appears committed to ending the armed campaign, foreswearing terrorism, and restructuring the IRA so that it is no longer designed for terrorist activities. Just last week, the IMC reported that it believes the IRA has taken a strategic decision to follow a political path, and does not present a terrorist threat. The commissioners' general conclusion is that this is a time of dynamic change and major progress.

All of these steps are very positive, and Gerry Adams and the entire Sinn Fein leadership deserve enormous credit for moving the Republican movement in this direction. I have publicly said so.

Yet despite all of this progress, the journey toward peace is not yet complete. The December 2004 bank robbery has still not been solved. Robert McCartney's murderers have still not been brought to justice, and his family continues to be subject to attempts at intimidation.

As I mentioned, the February IMC report stated that the IRA was winding down, but that it was also still engaged in criminal activities, and may not have decommissioned all of its weapons. Significantly, Sinn Fein refuses to support the police in Northern Ireland, or to encourage its constituents to join the Police Service.

Ian Paisley's DUP currently refuses to enter into local government with Sinn Fein, or even to talk with them at an official level. Despite all the progress over the past year, the DUP still harbors doubts about whether Sinn Fein and the IRA are truly committed to democracy and the rule of law.

From Sinn Fein's perspective, the impasse looks different. Sinn Fein is worried that the DUP may never enter into a government with it. If that is the case, if the DUP will never negotiate directly with Sinn Fein, why should Gerry Adams take the difficult step to have his party endorse the Police Service, a step some of his followers oppose? Why should Gerry Adams give away the last high card he has to play, unless he is going to have some guarantee that this step will lead to the full restoration of local government?

So as I said before, a question of trust has left us at an impasse. Hopefully it is an impasse that will be short-lived.

Now, as we assess progress in Northern Ireland, it is sometimes useful to disaggregate, to unbundle the peace from the process. While the political process is currently stalled, the peace, I am happy to report, is going quite well.

The Northern Ireland economy is very healthy, with low unemployment, as the Chairman noted. Northern Ireland is one of the fastest-growing regions in the UK. More people than ever before have jobs in Northern Ireland, with recent growth being twice the UK average. Downtown Belfast is fast becoming a modern European city. An estimated two million people visited Northern Ireland last year, a record. People in the north are ignoring the politics, and getting on with their lives.

One of the more encouraging signs of this is the growing support for integrated education, which has been a priority of this Administration and my time as Special Envoy.

In 1985 there were only four integrated schools. That number has now increased to 58, as well as 19 integrated nursery schools. A recent survey in Northern Ireland showed that 81 percent of the people there believe that integrated education is important to peace and reconciliation in Northern Ireland.

Another encouraging sign is the increasing public support for policing in Unionist, Nationalist, Loyalist, and Republican communities. Again, as you noted, Mr. Chairman, we all know that a fundamental building block for any normal society is the rule of law. Support for the rule of law by all parties is the foundation upon which further economic success and political stability can be built.

Now, relative to Dublin, New York, or even Washington, DC, Northern Ireland enjoys a relatively low crime rate. In fact, last year's figures were a 6-year low for the country. According to the Chief Constable, Hugh Orde, overall crime in Northern Ireland in the last 2 years is down 17 percent.

But victims don't want to hear about another city's crime rate, and every community in Northern Ireland deserves to have the protection that effective policing provides. No one deserves to be a second-class citizen living a ghettoized existence because political leaders place their own agenda ahead of the well-being of their constituents.

Policing in Northern Ireland has improved tremendously in recent years, and may be the outstanding success story of the peace process. Political parties, notably the SDLP, and many individuals have taken courageous steps to launch the new beginning to policing. The Patten Commission reforms, together with effective leadership from the Policing Board, the Police Ombudsman, Nuala O'Loane, and the Chief Constable have introduced genuine community-based policing to Northern Ireland.

Now, the independent ombudsman, Nuala, as you mentioned, has a mandate to investigate any and all allegations of police misbehavior, and she has done so. And let us not forget that last September the Police Service of Northern Ireland took over 150 live rounds from Loyalist paramilitaries, while protecting Republicans and Nationalists in West and North Belfast.

The Bush Administration will continue to advance both the peace and the political process. We have been outspoken in our support for integrated education. We have had discussions about how

Northern Ireland can attract greater foreign direct investment to sustain a healthy economy. We have strongly supported the new beginning to policing, and urged all political parties to endorse the PSNI. We talk continuously with the two governments and all the political parties, serving as a confidential advisor and traditional honest broker.

So as we work to move the political process forward, we are also mindful of the significant progress that has already taken place in Northern Ireland. And as we recognize this progress, we know that now is not the time to be complacent. The Bush Administration will continue working hard to assist the British and Irish Governments and all the people of Northern Ireland to realize the full promise of the Good Friday Agreement.

Thank you very much.

[The prepared statement of Mr. Reiss follows:]

**PREPARED STATEMENT OF THE HONORABLE MITCHELL B. REISS, SPECIAL ENVOY OF THE PRESIDENT AND THE SECRETARY OF STATE FOR THE NORTHERN IRELAND PEACE PROCESS, U.S. DEPARTMENT OF STATE**

Mr. Chairman, members of the Committee, distinguished guests;

Thank you for the opportunity to speak with you today about progress in the Northern Ireland peace process. Quite a lot has occurred since I testified last year. When reviewing the last eighteen months, we should be encouraged by the trajectory of the peace process, although we still face some obstacles, including a basic lack of trust between the two main political parties.

**THE PAST 18 MONTHS**

To recap briefly, in September 2004, the British and Irish governments, with strong support from President Bush, started a political process at Leeds Castle in England. These talks came very close to reaching an agreement, only to fall apart at the last moment, in December 2004. Less than two weeks after the talks collapsed, the IRA pulled off one of the largest bank robberies in UK history. It was clear that planning for the bank robbery had to have taken place during the negotiations. For Ian Paisley and his Democratic Unionist Party (DUP), this called into question Sinn Fein's sincerity—how could it negotiate peace on the one hand and allow the IRA to plan a bank heist on the other?

A few weeks after the bank robbery, there was a brutal murder of a young man named Robert McCartney outside a Belfast pub. The aftermath of this murder had all the hallmarks of an IRA operation. All of the forensic evidence, including the murder weapon, the tape in the close circuit TV camera in the pub, and fingerprints, were eliminated. Witnesses in the pub were “discouraged” from giving useful evidence to the police. The McCartney family and friends were subsequently intimidated by people alleged to be members of the IRA.

At St. Patrick's Day last year, Irish Americans gave voice to their frustration at the IRA's ongoing activities and its burden on the people of Northern Ireland and the peace process. Sinn Fein's leader, Gerry Adams, heard that message and used it. Three weeks after St. Patrick's Day, he called on the IRA to go out of business. In July, the IRA announced that it would foreswear violence and rely on “purely peaceful and democratic means.” In the fall, the IRA decommissioned a substantial portion of its weapons arsenal.

In February 2006, the Independent Monitoring Commission (IMC) concluded that the IRA appears committed to ending the armed campaign, foreswearing terrorism, and restructuring the IRA so that it is “no longer designed for terrorist activities.” Just last week, the IMC reported that it believes the IRA has taken a strategic decision to follow a political path and does not present a terrorist threat. The commissioners' general conclusion is that this is a time of dynamic change and major progress.

All of these steps are very positive, and Gerry Adams and the entire Sinn Fein leadership deserve enormous credit for moving the republican movement in this direction. I have publicly said so.

Despite all of this progress, the journey towards peace is not yet complete. The December 2004 bank robbery has still not been solved. Robert McCartney's murderers have still not been brought to justice and his family continues to be subject

to attempts at intimidation. As I mentioned, the February IMC report stated that the IRA was winding down, but it was still engaged in criminal activities and may not have decommissioned all of its weapons. Significantly, Sinn Fein refuses to support the police in Northern Ireland or to encourage its constituents to join the police service.

Ian Paisley's DUP currently refuses to enter into local government with Sinn Fein, or even to talk with them at an official level. Despite all the progress over the past year, the DUP still harbors doubts about whether Sinn Fein and the IRA are truly committed to democracy and the rule of law.

From Sinn Fein's perspective, the impasse looks different. Sinn Fein is worried that the DUP may *never* enter into a government with it. If that is the case, if the DUP will never negotiate directly with Sinn Fein, why should Gerry Adams take the difficult step to have his party endorse the police service, a step some of his followers oppose? Why should Gerry Adams give away the last high card he has to play unless he is going to have some guarantee that this step will lead to the full restoration of local government?

So as I said before, a question of trust has left us at an impasse. Hopefully, it is an impasse that will be short lived.

#### FOCUS ON THE PEACE AS WELL AS THE POLITICAL PROCESS

As we assess progress in Northern Ireland, it is useful sometimes to disaggregate, to unbundle, the peace from the *process*. While the political process is currently stalled, the peace, I'm happy to report, is going well. The Northern Ireland economy is very healthy, with low unemployment. Northern Ireland is one of the fastest growing regions in the UK. More people than ever before have jobs in Northern Ireland, with recent growth being twice the UK average. Downtown Belfast is fast becoming a modern European city. People in Northern Ireland are ignoring the politics and getting on with their lives.

One of the more encouraging signs is the growing support for integrated education. In 1985 there were only four integrated schools. That number has increased to 58 as well as 19 integrated nursery schools. A recent survey by Millward Brown Ulster showed that 81% of people in Northern Ireland believed that integrated education is important to peace and reconciliation in Northern Ireland. Over time the future generations of Northern Ireland will grow up in an environment of tolerance and pluralism.

Another encouraging sign is the increasing public support for policing in unionist, nationalist, loyalist and republican communities. We all know that a fundamental building block for any normal society is the rule of law. Support for the rule of law by all parties is the foundation upon which further economic success and political stability can be built.

Relative to Dublin, New York, or even Washington, DC, Northern Ireland enjoys a relatively low crime rate. In fact, last year's figures were a six-year low for the country. According to the Chief Constable, Hugh Orde, overall crime in Northern Ireland in the last two years is down 17 percent.

But victims do not want to hear about another city's crime rate, and every community in Northern Ireland deserves to have the protection that effective policing provides. No one deserves to be a second-class citizen, living a ghetto-ized existence, because political leaders place their own agenda ahead of the well-being of their constituents.

Policing in Northern Ireland has improved tremendously in recent years, and may be the outstanding success story of the peace process. Political parties, notably the SDLP, and many individuals have taken courageous steps to launch the new beginning to policing. The Patten Commission reforms, together with effective leadership from the Policing Board, the Police Ombudsman, and the Chief Constable, have introduced genuine community-based policing to Northern Ireland.

An independent Ombudsman, Nuala O'Loan, has a mandate to investigate any allegations of police misbehavior, and she does so. And let's not forget that last September the Police Service of Northern Ireland (PSNI) took over 150 live rounds from loyalist paramilitaries while protecting republicans and nationalists in west and north Belfast.

In his last report in December 2005, Oversight Commissioner for Policing Reform Al Hutchinson noted that 114 of the 175 recommendations made by the Independent Commission on Policing Reform for Northern Ireland (Patten Commission) have been completed, and that this served "as a worthy reminder that a great deal has been accomplished by the policing institutions over the past four years."

Hutchinson goes on to say that he expects most of the remaining recommendations "to be fully implemented by May of 2007" and notes the "the clear track record

of the Police Service and Policing Board meeting their obligations. Hopefully this success will be matched by increasing trust, faith and participation in the existing policing structures, as the wider community increasingly recognizes the profound nature and degree to which policing has changed.”

Much of the remaining recommendations focus on training, information technology, and property management—including the creation of a state of the art training academy in 2009 to replace the antiquated training college currently used by the PSNI.

Chris Patten himself stated in November 2003 that he believes “the Patten Report is being implemented in full.” The Oversight Commissioner’s office has confirmed this in a series of reports. The previous Oversight Commissioner, Tom Constantine, noted that the institutions involved in the policing of Northern Ireland “continue to make excellent progress in implementing a program of change in policing that may be the most sweeping and complex ever attempted in a modern society.”

#### CONCLUSION

The Bush Administration will continue to advance both the peace and the political process. We have been outspoken in our support for integrated education. We have had discussions about how Northern Ireland can attract greater foreign direct investment to sustain a healthy economy. We have strongly supported the “new beginning” to policing and urged all political parties to endorse the PSNI. We talk continuously to the two governments and all the political parties, serving as a confidential advisor and traditional “honest broker.”

So as we work to move the political process forward, we are also mindful of the significant progress that has already taken place in Northern Ireland.

As we recognize this progress, we are mindful that now is not the time to be complacent. The Bush Administration will continue working hard to assist the British and Irish governments, and all the people in Northern Ireland, to realize the full promise of the Good Friday Agreement.

Thank you.

**Mr. SMITH OF NEW JERSEY.** Ambassador Reiss, thank you very much, not only for your wonderful statement, but your excellent service on behalf of the President and the Secretary of State for Northern Ireland. So we are very, very grateful for that work.

Let me ask a couple of questions, if I could. Just generally, what do you see are the prospects for restoring the devolved government soon? And is a Democratic Unionist Party (DUP)-Sinn Fein power-sharing agreement deal possible? I think we are all aware of how vexing that appears, and how problematic it appears to be. But if you could speak to that issue.

And let me ask you what effect on the peace process the recent revelations have that major Loyalists and Republican figures have been British Government informers? And as we all know, Dennis Donaldson has now been found to be a British informer for possibly as much as 20 years. His arrest for allegedly running a Sinn Fein spy ring inside the Northern Ireland Assembly helped bring down the power-sharing agreement in 2002. And yet, the case against him has collapsed because it was revealed that he was, indeed, a British informer.

A Loyalist paramilitary mass murderer, Torrins Night, who helped carry out one of Northern Ireland’s most horrific terrorist attacks, part of the Loyalist paramilitary Ulster Freedom Fighters gang, which sprayed a Dairy pub with bullets, killing eight people and injuring nine, in a trick-or-treat massacre on Halloween night in 1993, has also been named as a police agent.

And in the most recent *Atlantic Monthly* feature, which I am sure you have read, as I have read it and found it very damaging, features as its cover story the confession of a long-time British informer by the name of Kevin Fulton, who was within the IRA

ranks, who claims to have been involved in horrific crimes while the British were paying him to inform.

And let me also just point out that in that article, which pointed out that one of the men, Freddie Skatapecci, makes a point that he, too, was on the payroll, and was informing, informing as part of the Force Research Unit. But he also served a host of agencies, among them MI-5, as part of his services. So he was a dual agent, or at least an agent for the government.

And it does raise the question once again about Patrick Finucane. Our concerns about collusion has been very, very profound, and I know you share that. But when you have a situation where the government will not open up, it appears to us, an open, transparent public inquiry—and as one of our witnesses will say later on from Human Rights First, and I quote her in pertinent part—that they are claiming that under the Inquiries Act of 2005, the whole terms of reference, the ability to have such an open inquiry, has been stymied, or at least thus far, where many of us believe that we should go under the previous rule, the previous law, in order to look into that killing.

My concern is that this article and all of the documentation that we see now coming forward suggests this dual role by the British Government. And it does beg the question especially—and I ask you to speak to this, if you would—we heard an announcement by the British Government recently that MI-5 is about to take over the primacy for intelligence-gathering in Northern Ireland, rather than the police force. And that raises very significant questions. You know, the past sometimes is a prologue. And what are your thoughts about that?

Does that bring us right back to the same old, same old? We have heard, before this came out in these articles and this recent spate of revelations, that we were suggesting too much when we suggested collusion.

I remember my own conversation with Ronnie Flanagan when I brought up collusion in Belfast. He just categorically denied it and just practically showed me the door when I would raise those issues. So some of us have seen that good people have been burnt in the past by this collusion, and there is a concern now that MI-5 may again be right back in the catbird seat on intelligence-gathering. What is your view on that?

They are not subjected to it. There is no oversight. The Policing Board, as far as I know, has no oversight capabilities when it comes to MI-5. Maybe it does, but I don't see it in the Patten Report, and I don't see it in what will unfold in the future. So again, it puts it right back into the secret category.

Mr. REISS. Thank you, Mr. Chairman. Let me try and take all of those excellent questions in turn.

First you asked about whether it is possible for there to be an agreement between Sinn Fein and the DUP. And as I have said before, if you are not an optimist, then you are in the wrong line of business here. So I do believe that one is possible. And more than that, I think that with a little bit more effort from all the parties, that we can actually accomplish that.

The big question, of course, is timing. And the two prime ministers, Prime Ministers Ahern and Blair, have already publicly

stated that they want to make a big push in 2006. And we certainly are going to do everything we can to support their efforts to do so.

So again, it is a little hard to actually get an end point for this. And that is why I try to emphasize whether things are either going in the right direction or the wrong direction. And I think generally things have been going in a very positive direction. We want to do everything we can to keep that momentum going.

On informers. I have no inside information about this issue, so all I can do is share some observations with you.

In terms of its impact on the peace process, I think that it has to be demoralizing for any party who finds that there is an informer in their midst, whatever political affiliation they might have. And I think it probably also raises questions about how much they can trust a government.

But putting that to one side, it seems to me that it doesn't have a great deal of influence on the real fundamentals that are dividing or stopping us from reaching agreement right now. And those fundamentals really are support for community policing, and the ability or inability of the DUP, the unwillingness of the DUP to engage with Sinn Fein, sooner rather than later.

And informers don't really play into that dynamic. So I am not saying they don't have any impact, but as I see it, on the real core issues, it is hard to see that they have a great deal of influence.

On MI-5 and intelligence-gathering, this is an issue that I am still familiarizing myself with. But I will say that given the often controversial history of intelligence-gathering and policing in Northern Ireland, the absolute bottom line for everybody involved here is that whatever arrangement is ultimately decided upon, it has to have the confidence of the entire community. Otherwise it will continue to cast a shadow over all the progress that has already been made, the significant progress that you and your colleagues have already noted.

And so I think that widespread community support is really the starting point for me. And it is more of a process one, rather than saying that any one particular way is the best way.

I note that you will be talking to members of the Police Board. And I think that they have opinions on how best to proceed specifically on that issue, as well.

Did I cover everything?

Mr. SMITH OF NEW JERSEY. Pretty much. If you would just touch on, I will ask the question a little bit more in detail.

As I think you know, the Irish Parliament has called upon the UK Government to adhere to the Weston Park Agreement, and to hold a Finucane inquiry under the previous Inquiries Act, which was in force at the time of Weston Park and when the Cory Report was issued.

How does the UK plan to conduct this inquiry, in your view, since neither the Finucane family—and I have talked to Geraldine, I have talked to the family, and I am sure you have, as well—nor any judge wants to cooperate with a hearing under the changed rules.

Mr. REISS. Right. I think that you received a letter that I requested from Peter Hain last week, dated March 7, that clarified

the British position on this. They have new legislation in place, and they would like to proceed under that new legal framework.

I met with the family today. And as I have told this Committee before, on every occasion when I meet with British officials, I raise this issue.

I think that the UK Government is mindful that without the support, the confidence of the Finucane family and others who are closely observing and have an interest in this case, that the main purpose of getting the truth out and finding justice finally for the Finucane family will not be achieved.

And so, again, I will be meeting later this week with UK officials. I will continue to raise it with them. And I would be happy to continue our conversation that we have had on this issue in the future.

Mr. SMITH OF NEW JERSEY. I would appreciate that. And I think, with all due respect, it becomes more damaging to the British Government, especially in light of this article about how one point is even made that it was a former British spy handler who worked at the time with Scappaticci's rise. His name is Martin Ingram.

He points out that the one preconception the IRA had, that if you were dirty—that is, if you have killed—then you cannot be an agent. His best protection was to keep on killing.

So with full knowledge of the British Government, or at least those in the Intelligence Services, this individual, who was wearing a dual hat, a duplicitous hat, was killing people. And he seems not to have been alone. Others seem to fit that same bill.

My concern, and the concern I think of many others, is that, in Patrick Finucane's case, we keep hearing that this will compromise somehow national security or security methodologies. That just begs the question far too much, when you realize if this is accurate, that they were fully knowledgeable that people were being killed. And even allowed, in his case, as an interrogator for the IRA, to kill people, and to do it almost with impunity, because that set him up as being beyond reproach. Who could question his credentials when he was torturing and killing people?

That needs to come out, if that, indeed, is the case. And if the Finucane case is part of that very ugly and sordid affair, or a similar affair, that needs to come out, as well. And cover-up will serve no purpose but to allow, in my humble opinion, this whole situation to fester even more than it already has.

Geraldine is here, as you know, and she has been such a brave woman, asking a very simple question, as you know so well, because you have tried, I know in your capacity, to move this along, as well. And we are hoping, with Judge Peter Cory making his most recent statements in Ireland just a few weeks ago, that this stonewalling will cease, and the records be opened up.

And so maybe if you can just respond to that a little bit further, if you would.

Mr. REISS. Well, I endorse everything you have said. I have been involved with this issue from day one of my responsibility to this job.

You may recall that last year I requested a meeting with the head of MI-5 to get a personal pledge from her that all information

that MI-5 had relating to the Finucane case would be made available to the inquiry. And she agreed to do that.

So the issue now is really who can make the decision over releasing information to the public. And before it was in the hand of the Chairman of the Inquiry, and under the new legislation it is up to the Minister.

And clearly that is unacceptable to the Finucane family. It raises questions for many of us who watched this issue. And I will just keep on raising it with the UK Government.

Mr. SMITH OF NEW JERSEY. Thank you so much. I will be introducing a resolution, either later on today or early tomorrow, and I will give you a copy of it, that parallels what our friends in the Dail Eireann have done with regards to the Patrick Finucane case.

And we will continue our part to try to get a full and thorough accounting of who was involved, whether or not there was collusion, and how far up it goes.

I think it is an absolutely legitimate question. And so much in Northern Ireland I think depends on its final answer.

Mr. Wexler.

Mr. WEXLER. Thank you. I was wondering if I could ask your thoughts. I am actually dying to hear your perspective on this, which goes beyond the bounds of the immediate hearing. If you don't care to do it, I understand.

But recent conversations I have had with some European leaders—and I hesitate to quote him, but I don't think he would mind—Ambassador Brudan, the European Union Ambassador here to Washington, who I have an enormous amount of respect for, in talking about the cortex conditions regarding Hamas. And I am not making any parallels between Northern Ireland and Hamas, and I don't wish you to, either.

But given the wealth and the breadth of your experience at this point, and given the evolution that has occurred in the last year—and it is Ambassador Budan that was very specific with me in pointing out that it took 7 or 8 years for the IRA ultimately to disarm under conditions far different than exist in Israel and in the Palestinian areas.

But given the variety of challenges that the United States faces in different parts of the world, and the strategies employed in the context of disarming paramilitary groups, whether it be Hezbollah in Lebanon, Hamas in Gaza and in the West Bank, and other examples, are there lessons to be learned from this experience that should or can be applied in other circumstances, in the context of what strategy the United States and our allies can follow, in order to better disarm terrorist paramilitary groups? Particularly when there is a context of democracy that surrounds the evolution of that paramilitary group's power or entry into some type of democratic process.

Mr. REISS. Mr. Congressman, thank you. That is a superb question, and it is one I have actually given quite a bit of thought to, both in my official capacity with Northern Ireland, but also as an academic.

Removing the question from the context of Hamas specifically, I do think that there are a number of very important lessons, interesting lessons, both dos and don'ts that you can learn, one can

learn, from a close examination of the Northern Ireland peace process.

There are tremendous risks for any government that is going to start down this path of trying to reach out to paramilitary organizations, to terrorist organizations. No government ever publicly admits that it negotiates or even talks with terrorist organizations. And yet, we have historical examples where that is so.

There are risks also for the terrorist organization, or for those leaders in those groups, that may be seen as compromising the principles or betraying their colleagues. Those are some of the risks in the early days. Even if you can identify who in this group may be willing to go down a political non-violent path from his colleagues, how do you validate that person? How can you be sure that that person is really legitimate, and isn't just playing you?

All these are very important questions, very difficult questions for anybody to answer. And they carry enormous risks for the governments.

What I would like to do, because it is a complicated subject, is to send you, if I may, a paper that I delivered last year at Cambridge University that talks about lessons from the Northern Ireland peace process. [The paper, *Lessons of the Northern Ireland Peace Process*, is also available on the State Department Web site at: <http://www.state.gov/p/eur/rls/rm/54869.htm>.] It addresses, I think, the concerns that you have, and the really excellent question that you have raised.

Mr. WEXLER. Thank you very much.

Mr. SMITH OF NEW JERSEY. Thank you very much, Mr. Wexler. I know you need to move, but if I can ask you one final question.

Mr. REISS. Of course.

Mr. SMITH OF NEW JERSEY. And just add to the question my good friend and colleague asked. And Dennis Rooney, the new IFI Chairman, was here a moment ago. But they are trying to share their experience with other countries, as well, in terms of bringing the young people from divergent backgrounds, especially where there has been animosity, together to work together.

And all of a sudden, they begin seeing that they are very much alike, and then friendships blossom and the cycle of hate is broken. So that is something that the IFI has been exporting. And I think that could help in the Middle East, as well.

Mr. REISS. Your point is very well taken.

Mr. SMITH OF NEW JERSEY. Let me just ask you, if I could, one final question. I know you need to run.

In your written testimony you refer to IRA's move to decommission its weapons last fall. Could you elaborate on the extent of this decommissioning, as well as to comment on any moves by the Loyalist paramilitaries to disarm?

Mr. REISS. Sure. All the information I have, to be candid, is second-hand. It is really looking very carefully at the reports of the International Monitoring Commission (IMC) and General de Chastelain's organization, the Independent International Commission on Decommissioning (IICD).

I don't want to miss the opportunity, though, before I get into that, to say I endorse wholeheartedly your support for the IFI. I am a huge fan of their work, and their new Chair, Dennis Rooney.

And I am very grateful for the financial support that the Congress has provided them over the years, and hopefully will continue to provide them.

The press noted some discrepancy between the two reports. And I think if you look more carefully at the language of the specific reports, you can find a way to square the circle here.

The IMC relies on a variety of sources that may not be exactly the same as the IICD. The IMC didn't say that there had not been complete decommissioning, they simply said that there were reports.

Now, the IICD took those reports, went back to its sources, and said that they found that there had been complete decommissioning. So I am hopeful that with subsequent IMC reports, we may get greater clarification of that.

I think that nobody doubts that there was a substantial significant act of decommissioning by the IRA, much greater than they have ever done in the recent past, or in their history, voluntarily. So I think that that is a positive step, and I try to recognize it as such.

Mr. SMITH OF NEW JERSEY. And what about the other paramilitary?

Mr. REISS. On the other paramilitary side, as I said in the testimony, we and others are very quietly trying to work with them to try to move them in the same direction.

Now, it is a combination of political persuasion, but also a crackdown on criminal activity. We saw in the last few days that there was a raid of a bar in Northern Ireland where a number of Ulster Defense Association (UDA) members were arrested. So I think that this sort of carrot-and-stick approach—they can either voluntarily go out of business, or else we can get Hugh Orde and the excellent work that he does to do the job for them.

But either way, it is clear that a normal society has no place for these type of individuals.

Mr. SMITH OF NEW JERSEY. Thank you so much, Mr. Ambassador.

Let me also just recognize Dean Pittman, Consul General for the United States Consulate in Belfast, who is also here, and thank him for joining us at this hearing. Thank you very much.

Mr. REISS. Thank you, Mr. Chairman.

Mr. SMITH OF NEW JERSEY. Thank you, Mr. Reiss. I would like to now welcome—

Mr. ENGEL. Mr. Chairman, could I ask a question?

Mr. SMITH OF NEW JERSEY. Mr. Engel.

Mr. ENGEL. Mr. Ambassador, you almost made it. I apologize. But I just have sort of one and a half questions for you, and I would be very curious to get an answer.

First of all, I want to thank you for the good work that you do. We all appreciate it very, very much.

Mr. Ambassador, Sinn Fein has come under great pressure for not signing off on the policing program. Yet much of the Patten Commission report relating to policing has not yet been implemented. And they cite that when asked why they are not signing off on the policing program.

And secondly, your restricting Gerry Adams' activity in this country based on this, based on the fact that Sinn Fein has not yet signed off on the policy. Could you please explain that, both of those things?

I happen to think it is a very short-sighted policy, restricting Gerry Adams, when other political parties are allowed to fundraise in the United States, and we are saying that one party can't. This kind of pressure that we appear to be putting on them, because they are not doing exactly what we want them to do, I think is a very dangerous precedent.

Mr. REISS. As you noted, not all of the Patten Commission recommendations have been fully implemented. Roughly 65 percent, just over 65 percent, have.

Some recommendations have not yet been implemented for different reasons. There are some that relate to IT upgrades, some that relate to disposal of property, some that relate to the building of a new police academy. The Oversight Commissioner has said that by May 2007, almost all of the Patten Commission recommendations will be implemented.

And so I don't think that there is any intention to slow-roll implementation of Patten.

It should also be noted that some of the Patten Commission recommendations cannot be implemented without full support by all the communities. And this leads into your question about Sinn Fein.

Until Sinn Fein supports policing, Patten will not be able to be fully implemented. And so it is a little disingenuous on the one hand to say that they can't join because Patten hasn't been fully implemented, when they are the source, at least in part, of having these recommendations not fully implemented.

In terms of fundraising, both as a matter of policy and privacy, I really can't comment on any individual's visa conditions.

I will say that granting visas to support the peace process has been an essential role that the United States has played, under both the Clinton Administration and the Bush Administration. And that Mr. Adams and all members of the Northern Ireland political parties continue to receive visas to come to the United States and support the peace process. And as long as I am on this job, they will continue to do so.

And we may have a disagreement over policing and ends and means, but I would prefer not to see this as a visa issue. I prefer to see this as an issue that affects Republicans and Nationalists and their communities in Northern Ireland, who deserve decent policing. And they are being denied that policing now because of a political decision.

Mr. ENGEL. Well, let me thank you. Thank you for your answer. But let me just say that I really believe it is counterproductive to try to use either a lack of a visa or restrictions on a visa as punishment to get a political party in a dispute in another country to do what we think they ought to be doing.

Gerry Adams has been to this country many times before, and has had no restrictions. And to my knowledge, he has always abided by the laws of this country while he is here.

Rita O'Hare is another person from Sinn Fein who couldn't come for a while; now she is coming. But there was also an attempt to block her visa. And I just think that this is not something that we should do.

I support, obviously, the peace process, and bringing all the parties together. But I just think it is so counterproductive for us to play these games. And I just wanted to state that for the record.

Mr. REISS. Congressman, I know that I have personally intervened to make sure that Rita always gets visas to come to the United States. And if she has been denied a visa, I really would like to hear about it. Because, as I said, I think it is important for her to come to the United States and support the peace process.

They have a view. They represent constituents. It is important for them to be heard.

I will also say that, as a matter of historical record, that Gerry Adams was denied a fundraising visa under the Clinton Administration. So there is a precedent here.

And again, I don't think that we disagree on the ends. We may disagree on the means to reach those ends.

Mr. ENGEL. Well, let me say, first of all, I would be happy to get back to you, but there was a distinct time when Rita O'Hare, a few months ago, 6 months ago, was supposed to come here to Washington to meet with Members of Congress, and she was not able to come. Whether she was denied a visa or whether there was a restriction on her coming here, I don't know what the specifics were, but I definitely know for a fact that she was not able to come.

And in terms of the fundraising visa, I mean, if it is wrong under the Bush Administration, it is wrong under the Clinton Administration. I am not playing politics with it, I just think it is wrong. I think that we don't help the process when we do that.

I think that there are a lot of things, frankly, that Sinn Fein has done to break with the past. I think that their policy on IRA and the weapons and things like that, they have shown that they are breaking with some of the past policies, and have taken risks for peace.

And I just think at a very time when they are taking these risks, and they are showing the attempt to try to change their positions, I think not allowing these visas is very counterproductive, particularly at this period of time.

Mr. REISS. Thank you, Congressman.

Mr. ENGEL. Thank you.

Mr. REISS. In terms of Rita O'Hare, I think the time you were referring to is this past May. And let me go and check the record, and we can get back to you on that.

Mr. ENGEL. Thank you.

Mr. REISS. But again, for the record, I am in favor of Rita and Mr. Adams and all the political leaders coming to the United States to support the peace process.

Mr. ENGEL. Thank you. Thank you, Mr. Chairman.

Mr. SMITH OF NEW JERSEY. Thank you, Mr. Engel. Ambassador Reiss, thank you again so much for your testimony, and for your exemplary work.

Mr. REISS. Thank you, Mr. Chairman.

Mr. SMITH OF NEW JERSEY. I would like to now welcome our second panel to the witness table. And it is indeed a distinct honor and a privilege to welcome Professor Sir Desmond Rea, who has been Chairman of the Northern Ireland Policing Board since November 2001.

He is an Emeritus Professor of Human Resource Management at the University of Ulster, and was former Senior Lecturer in Business Studies and Assistant Dean, Faculty of Economics and Social Services, Queen's University in Belfast.

Sir Desmond is the Editor of the First Trust Bank's Quarterly Economic Outlook and Business Review. He is a former Chairman of the Northern Ireland Labor Relations Agency, Northern Ireland Council for Curriculum Examinations and Assessment, and Northern Ireland Local Government Staff Commission.

We will then hear from Dennis Bradley, who is Vice Chairman of the Northern Ireland Policing Board. In addition, he is current Chairman and Chief Executive of Northland Films, and Chairman of the Northland Center, a center for the treatment of addictions. He was a member of both the Northern Ireland Drugs Committee and the BBC Broadcasting Council.

As a founding member of the Bogside Community Association, he has long been associated with local community organizations. And I would note parenthetically, in 2004 his home was fire-bombed, and he was also a victim in 2005 of vicious attacks when he was in a bar with his son watching a soccer match. So he has certainly paid a price for his beliefs and for his advocacy for policing reform.

If we can begin with Sir Desmond.

#### **STATEMENT OF THE RIGHT HONORABLE SIR DESMOND REA, CHAIRMAN, NORTHERN IRELAND POLICING BOARD**

Mr. REA. I am pleased to be here. My name is Desmond Rea, and as Chairman of the Northern Ireland Policing Board, I am pleased to be here from the Northern Ireland Policing Board to testify, along with the Board's Vice Chairman, Denis Bradley.

The Board is also represented here today by representatives of each of the three political parties on the Board. As you know, one political party is still not on the Board. But the Social Democratic and Labour Party (SDLP) is represented at this hearing today by Joe Berne, the Ulster Unionist Party by Alan MacFarland, and the Democratic Unionist Party by Ian Paisley, Jr.

And could I acknowledge in passing, Chairman, the role of the Honorable Mitchell Reiss, in relating to Northern Ireland, its ongoing problems. And we are very much appreciative of him, in particular his interest in policing.

Policing is a central issue in any society. But in Northern Ireland, no issue has been more difficult or divisive.

The participants in negotiations that led to the Belfast Agreement of Good Friday, 1998 recognized this. They believed that the agreement would provide an opportunity, and here I quote: "For a new beginning to policing in Northern Ireland, with a police service capable of attracting and sustaining support from the community as a whole."

The 1999 report of the Independent Commission on Policing in Northern Ireland, chaired by Chris Patten, to which you have al-

ready referred, with its 175 recommendations, 114 indeed already removed from the table. And as the Oversight Commissioner has pointed out, if the present trend continues, all will be off the table, or the vast majority, by May 2007.

But those 175 recommendations, they became the blueprint for the new beginning, and for affecting police change.

At midnight on the 4th of November 2001 the Northern Ireland Policing Board began its job. And its job, Mr. Chairman, is twofold. First, to support the police to the ends of effective and efficient policing. And secondly, to hold the police to account, through the Chief Constable, for the delivery of those ends.

And so the role is to hold to account and ensure for all the people of Northern Ireland the delivery of an effective, efficient and impartial police service, which would secure the confidence of the whole community.

A word briefly about the policing architecture. The policing architecture put in place in Northern Ireland is quite unique. Through, first, the accountability function of the Board, to which I have already referred. Secondly, the provision of an independent complaints system through the Office of the Police Ombudsman, to which you and the Honorable Mitchell Reiss have referred.

And finally, the critical role of the Police Oversight Commissioner who has been responsible for measuring progress in the change process in respect to policing in Northern Ireland. Indeed, I think I could claim as, indeed, has the Chief Constable, that Northern Ireland is now subject to more oversight than any other police service in Europe, if not the world.

This policing architecture has delivered the accountability, the oversight and transparency mechanisms essential for building public confidence in policing and delivering a service which meets the needs of the whole community.

Getting on with its task. The Board's work has taken place during a period of continuing political uncertainty, and full political and public support for policing has still not been secured. We are not yet policing in a normal society, and there is still a way to travel.

I sometimes sum this up with three brief statements. First, it is important that every part of Northern Ireland is policed. Secondly, it is important that recruits are drawn and selected from every part of the community. And thirdly, that once they have been recruited and trained, that they can go back and visit their parents. There are some parts of Northern Ireland where they cannot even do that with assurance, in terms of their physical well-being.

But despite that, this has not inhibited the Board's commitment to its work. And despite the lack of full support, the Police Service in Northern Ireland and the Board have met the challenge of delivering on difficult issues, and effecting comprehensive and fundamental changes to policing.

With respect, then, to winning the support of the whole community, summed up in Northern Ireland by 50/50. For policing to win the support of the community, it must be representative of it. And historically, policing in Northern Ireland was not.

Over the past 4 years, as the result of 50/50 recruitment provisions, real compositional change has been effected in a relatively

short space of time with almost 20 percent of regular officers that are now from the Catholic community. You made mention that recruits in PSNI are supposed to be 50 percent, that is correct. But you didn't go on to say that it is 50 percent. That is the reality today.

And incidentally, in respect of female representation in the police, one of the interesting statistics, not taken cognizance of in Northern Ireland, is that the figure over the same period in Northern Ireland for females has gone from 10 to 20 percent.

District Policing Partnerships. Engaging local people to participate in new policing arrangements has provided challenges. But the real turning key has been the establishment of 26 district Policing Partnerships, otherwise known as DPPs, set up by the Board in 2003. These partnerships are a real success story, with their own 500 people now having their say on local policing issues. They are the common integral and accepted part of local policing, and have brought policing closer to the community, and the community closer to policing, in a way that has never happened before.

I would challenge anyone, Chairman, to find more representative bodies anywhere than these DPPs. They are representative of each and every District Council in terms of gender, in terms of identity, Protestant/Catholic, in terms of ethnicity, in terms of disablement. And I believe that they, in terms of delivering of policing with the community, are a major success story.

They have held over 400 meetings in public during their first term, giving local people the opportunity to ask questions of the PSNI, and discuss issues of concern across Northern Ireland. The ability to question, and their responsibility is, in part, a monitoring responsibility against the local policing. This has underpinned the change process, and the Board itself has been given strong powers, in addition to the strong powers that the Board has been given to carry out its work.

Denis Bradley, as Vice Chairman of the Board, this is a particular area in which he has a strong interest because he chairs the respective committee for the development and monitoring of the progress in respect of DPPs.

You have raised the issue of intelligence, the reform of Special Branch. The whole area of intelligence, the reform of Special Branch, and the handling of informants is an area where legitimate questions have been raised in the past. The Board's review of the dissemination of intelligence between Special Branch and other parts of the Police Service. That was a particular problem, Chairman, that arose out of Omagh.

This dissemination question has formed the basis for major change through the implementation of a series of report recommendations. The scrutiny of these areas, the establishment of a new Crime Operation Department, provides for increased public confidence. The dedicated structure and staffing of the new department ensures that the policies, processes, and practices for the management of intelligence and day-to-day operations now meet national professional standards. And if you want to question us on that, we will be happy, Chairman, to elaborate.

It is interesting that in the presentations that you and your colleague have made, you referred, underpinning some of that is the

whole issue of human rights. Policing in Northern Ireland hasn't just survived uncertain times. In many ways it has flourished, and leads the way internationally.

One example of this is the PSNI approach to human rights in policing. This booklet, the Code of Ethics for the Police Service of Northern Ireland, I believe that it, in itself, and every member and every officer in the Police Service of Northern Ireland is required to sign off to it. I commend it to you, and we will leave it for you to put on the record.

In February 2003 that Code of Ethics was introduced for the Police Service. This code, which, as I have said, is I believe unique, lays down the standards of conduct and practice for police officers, and sets out the rights as well as their duties and obligations under the Human Rights Act of 1998.

The Board is responsible for monitoring police compliance with the Act. And it appointed two human rights experts to develop a robust monitoring framework against which to scrutinize how the police meet their human rights responsibilities.

In March 2005 the Board published its first human rights annual report, which comprehensively examined the PSNI's performance against this framework. Significant progress had been made, but there are still issues to be taken forward. And implementation of the report's recommendations are being closely monitored by the Board.

But it is encouraged that the report's authors, Keir Starmer QC and Jane Gordon, state that the PSNI has done more than any other police service in the United Kingdom to achieve human rights compliance. Again, Chairman, we would propose to give you a copy of that report to be placed on the record.

The Board has also been involved in ongoing efforts to research and develop less lethal alternatives to the controversial baton round, and the work undertaken has considered technologies used by police services across the world. The Board supported the Chief Constable's decision to introduce CS Spray and a new baton round, and consultation initiated on the Chief Constable's intention to purchase 12 TASER units for use by specialist firearms officers will provide a basis for the Board's discussion on this.

The issue of less lethal weaponry—and here I am referring to public disorder and non-public disorder—is one of legitimate public interest in Northern Ireland. But unfortunately, as we witnessed in the extensive street disorder last summer, particularly in September, as already referred to, the police must have access to a range of equipment to meet difficult, and often dangerous, policing situations.

The Chief Constable has a duty to the members of the Service, and this Board, also has its duty of care. Even though it is important that it does not ignore its accountability role, it also has a duty of care, as well.

Officers need access to technologies that allow them to use no more force than is reasonable and proportionate, and act in a way which is compliant with the European Convention on Human Rights. The robust accountability mechanism now we believe as a Board provide that assurance.

Let me turn briefly, in my concluding remarks to the challenges ahead. But despite all the progress made, looking to the future there are still challenges ahead.

The Board is committed to supporting the delivery of a policing service that is fit for the 21st century. And that is about making the community safer for everyone. Northern Ireland, as has already been said, is one of the safest places in Europe to live, but there is still crime and criminality. Organized crime remains a major issue. But through the dedicated work of the PSNI, the Assets Recovery Agency, and other key agencies, including close cooperation with An Garda Siochana—and you will have noted, no doubt, Chairman, the important raids that took place, joint raids between the Police Service of Northern Ireland and the Garda in the last fortnight—those who profit through ill-gotten gains are being brought to justice.

Dissident terrorists still pose a threat. But normalization has and is happening. Mobile police officers patrol in Belfast and other cities and towns, on bicycles as well as on foot, something that would have been unthinkable 5 years ago.

I want to tell you just briefly, I sat in on an accountability exercise, along with Alex Atwood at the Grosvenor Road Police Station. The District Commander there is responsible for West Belfast. I asked the following question: What is the breakdown of the population in West Belfast? Ninety-six percent Catholic, four percent Protestant.

I then asked another question. Tell me about patrolling. Does patrolling take place in all parts of West Belfast every day? And the answer on the record—and I asked can I quote this publicly—was in the affirmative. Police stations are becoming more user-friendly, with the use of mobile stations and police surgeries. No other police service in modern times has had to manage and implement such fundamental and complex changes.

Sir Ronnie Flanagan embraced the initial change process, Sir Hugh Orde has provided leadership. He has passed the mantle of change, and driven the change agenda, while continuing to police a changing society.

Police Oversight Commissioner Al Hutchinson stated in June 2005, here I quote: “The policing change process in Northern Ireland represents the most complex and dramatic changes ever attempted in modern policing history.” That is from a Canadian policeman. “I believe the commitment to a process of change has put policing on the global map for the right reasons.”

Others have not yet made that commitment. Others choose to threaten and intimidate, and you have rightly referred to the attack in the last year on my colleague, Denis Bradley. They intimidate those who have committed to playing a positive role, while others, suffering from past injustices, are still unsure.

As I said earlier, Northern Ireland is not yet normal. And if we are truly to move on, Northern Ireland must also deal with its difficult past. And I refer to this because you, Chairman, did refer to it, as well.

The establishment of a historical inquiries team by the PSNI will answer some of the many unanswered questions, and help perhaps bring closure for some. But what has happened in the past in polic-

ing cannot be used as a reason for holding back the future. We must not look back, but engage in debate and move on together.

For policing, police must be able to police every part of the community, as I have already said. Recruits must come from every part of the community. And most importantly, they must be able to go back to their homes without fear for their lives.

In respect of Sinn Fein, they are welcome on this Board, Chairman, yesterday. But that is a matter for the two governments and the political parties to resolve. It is not a matter for this Board.

The potential for devolution of policing and justice to a new assembly will provide many new challenges. But it will also deliver the final parts of the political jigsaw put together so conscientiously by the Patten Commission. It is the hope of the Board that a long-lasting political settlement is delivered, and full support for policing secured. In the meantime, the Board will continue to meet its important oversight role, and no doubt the new Board, which will take office on the 1st of April, will do likewise.

On behalf of the Board, I thank your Committee for its continued interest and support for policing in the province, and encouraging a lasting peace settlement.

The Board has produced a document which sets out in greater detail some of the areas of our work during its first term. And I would like to present you with copies at the conclusion today of our evidence.

Thank you very much, Chairman.

[The prepared statement of Mr. Rea and Mr. Bradley follows:]

PREPARED STATEMENT OF THE RIGHT HONORABLE SIR DESMOND REA, CHAIRMAN,  
AND MR. DENIS BRADLEY, VICE CHAIRMAN, NORTHERN IRELAND POLICING BOARD

INTRODUCTION

Mr Chairman, thank you. My name is Desmond Rea and as Chairman of the Northern Ireland Policing Board, I am pleased to be here to testify today along with my Vice-Chairman, Denis Bradley.

Policing is a central issue in any society but in Northern Ireland no issue has been more difficult or divisive.

The participants in the negotiations that led to the Belfast Agreement of Good Friday 1998 recognised this; they believed that the Agreement would provide an opportunity, and I quote '*for a new beginning to policing in Northern Ireland with a police service capable of attracting and sustaining support from the community as a whole'*

The 1999 Report of the Independent Commission on Policing in Northern Ireland, chaired by Chris Patten, with 175 Recommendations, became the blueprint for the new beginning and for affecting that policing change.

At midnight on the 4th November 2001 the Northern Ireland Policing Board began its job of holding the Police Service to account; and ensuring for all the people of Northern Ireland the delivery of an effective, efficient, and impartial police service which would secure the confidence of the whole community.

THE UNIQUE POLICING ARCHITECTURE

The policing architecture put in place in Northern Ireland is quite unique. Through

- first the accountability function of the Board;
- secondly, the provision of an independent complaints system through the office of the Police Ombudsman, and
- finally, the critical role of the Police Oversight Commissioner, who has been responsible for measuring progress in the change process, policing in Northern Ireland is now subject to more oversight than any other police service in the Europe, if not the world.

This policing architecture has delivered the accountability, the oversight and transparency mechanisms essential for building public confidence in policing and delivering a service which meets the needs of the community.

#### GETTING ON WITH THE TASK

The Board's work has taken place during a period of continuing political uncertainty and full political and public support for policing has still not been secured. We are not yet policing a normal society, and there is still a way to travel.

But this has not inhibited the Board's commitment to its work—and despite the lack of full support, the Police Service of Northern Ireland and the Board have met the challenge of delivering on difficult issues and effecting comprehensive and fundamental changes to policing.

#### WINNING THE SUPPORT OF THE WHOLE COMMUNITY : 50/50

For policing to win the support of the community, it must be representative of it and historically policing in Northern Ireland was not. Over the past 4 years, as the result of 50:50 recruitment provisions, real compositional change has been effected in a relatively short space of time with almost 20% of regular officers are now from the Catholic community—with a target to meet the Patten goal of 30% by 2010. Female representation in the service has doubled to 20%.

#### DISTRICT POLICING PARTNERSHIPS

Engaging local people to participate in the new policing arrangements has provided challenges, but the real turning key has been the establishment of 26 District Policing Partnerships (DPPs). Set up by the Board in 2003, these partnerships are a real success story with around 500 people now having their say on local policing issues. They have become an integral and accepted part of local policing and have brought policing closer to the community and the community closer to policing in way that has never happened before.

DPPs held over 400 meetings in public during their first term, giving local people the opportunity to ask questions of the PSNI and discuss issues of concern across Northern Ireland.

The ability to question and hold the police to account has underpinned the change process and the Board itself has been given strong powers to carry out its work.

#### INTELLIGENCE, THE REFORM OF SPECIAL BRANCH

The whole area of intelligence, the reform of special branch and the handling of informants is an area where legitimate questions have been raised in the past. The Board's review of the dissemination of intelligence between Special Branch and other parts of the Police Service has formed the basis for major change through the implementation of a series of report recommendations. The scrutiny of these areas, and the establishment of a new Crime Operations Department provides for increased public confidence. The dedicated structure and staffing of the new Department ensures that the policies, processes and practices for the management of intelligence and day to day operations now meet national professional standards.

#### HUMAN RIGHTS

Policing in Northern Ireland hasn't just survived uncertain times; in many ways it has flourished and leads the way internationally. One example of this is the approach to human rights in policing.

In February 2003, a Code of Ethics was introduced for the Police Service. This Code, which I believe is unique in European policing, lays down the standards of conduct and practice for police officers and sets out their rights, as well as their obligations under the Human Rights Act 1998.

The Board is responsible for monitoring police compliance with the Act and appointed 2 human rights experts to develop a robust monitoring framework against which to scrutinise how the police meet their human rights responsibilities.

In March 2005, the Board published its first Human Rights Annual Report which comprehensively examined the PSNI's performance against this framework. Significant progress has been made—but there are still issues to be taken forward and implementation of the report's recommendations are being closely monitored by the Board.

But it is encouraging that Report Authors, Keir Starmer QC and Jane Gordon, state that '*the PSNI has done more than any other Police Service in the UK to achieve Human Rights Compliance*'.

The Board has also been involved in ongoing efforts to research and develop less lethal alternatives to the controversial baton round and the work undertaken has considered technologies used by police services across the world. The Board supported the Chief Constable's decision to introduce CS Spray and a new baton round—and consultation initiated on the Chief Constable's intention to purchase 12 TASER units for use by specialist Firearms Officers will provide a basis for the Board's discussions on this.

The issue of less lethal weaponry for public order and non public order is one of legitimate public interest in Northern Ireland—but unfortunately as we witnessed in the extensive street disorder last Summer, the police must have access to a range of equipment to meet difficult and often dangerous policing situations. Officers need access to technologies that allow them to use no more force than is reasonable and proportionate and act in a way which is compliant with the European Convention on Human rights. The robust accountability mechanisms now provide that assurance.

#### CHALLENGES AHEAD . . .

But despite all the progress made, looking to the future, there are still challenges ahead.

The Policing Board is committed to supporting the delivery of a policing service that is fit for the 21st century.

And that is about making the community safer for everyone. Northern Ireland is one of the safest places in Europe to live, but there is still crime and criminality. Organised crime remains a major issue but through the dedicated work of the PSNI, the Assets Recovery Agency and other key agencies, including close co-operation with An Garda Siochana, those who profit through ill-gotten gains are being brought to justice.

Dissident terrorists still pose a threat, but normalisation has and is happening. Mobile police officers patrol in Belfast and other cities and towns on bicycles, something that would have been unthinkable 5 years ago. Police stations are becoming more user friendly with the use of mobile stations and police surgeries.

No other police service in modern times has had to manage and implement such fundamental and complex changes. Whilst Sir Ronnie Flanagan embraced the initial change process, Sir Hugh Orde has provided leadership; he has grasped the mantle of change and driven the change agenda while continuing to police a changing society.

Police Oversight Commissioner, Al Hutchinson stated in June 2005 that and I quote, 'the policing change process in Northern Ireland represents the most complex and dramatic changes ever attempted in modern policing history'. I believe the commitment to a process of change has put policing on the global map for the right reasons.

Others have not yet made that commitment, others choose to threaten and intimidate those who have committed to playing a positive role, while others, suffering from past injustices are still unsure. As I said earlier, Northern Ireland is not yet normal and if we are to truly move on Northern Ireland must also deal with its difficult past.

The establishment of an Historical Enquiries Team by the PSNI will answer some of the many unanswered questions and help bring closure for some. But what has happened in the past in policing cannot be used as a reason for holding back the future.

We must not look back—but engage in debate and move on together.

For policing—police must be able to police every part of the community, recruits must come from every part of the community and most importantly officers must be able to go back to their homes without fear for their lives.

In respect of Sinn Fein, they are welcome on the Board yesterday, but it is not up to the Board to sort out the politics of that.

The potential for devolution of policing and justice to a new Assembly will provide many new challenges but will also deliver on of the final parts of the policing jigsaw put together so conscientiously by the Patten Commission.

It is the hope of the Board that a long lasting political settlement is delivered and full support for policing secured. In the meantime the Board will continue to meet its important oversight role and no doubt the new Board which take up office on 1 April will do likewise.

On behalf of the Policing Board I thank the Committee for its continued interest and support for policing in Northern Ireland and in encouraging a lasting peace settlement.

The Board has produced a document which sets out in greater detail some of the areas of our work during its first term and I would like to present you with copies today.

Mr. SMITH OF NEW JERSEY. Thank you very much. Mr. Bradley.  
Mr. BRADLEY. I am just going to take questions, if you have any.

Mr. SMITH OF NEW JERSEY. Okay, thank you. And without objection, the recommendations you have made, the submissions will be made a part of the record. And I look forward to reading those, as well as I am sure my colleagues, as we disseminate the proceedings through a wider swath of the Congress.

Let me just ask you first, on the district Policing Partnerships. And again, I want to, on behalf of my colleagues on the Subcommittee, as well as the Full Committee, express my respect and our respect for your leadership and for your efforts. The policing boards we really think have done an extraordinary job, under very difficult circumstances, personal, as well as institutional.

And just let me ask first, on the 26th District Policing Partnerships that you mentioned in your testimony. You pointed out that the DPPs have held over 400 meetings in public during their first term.

And I wonder if some issues emerged over and over again as part of those meetings, and whether or not that was ever put into a compendium or into a summary, and whether or not that has been changing. If people are now bringing up new issues that perhaps were not brought up before, and others were being solved, to get a sense of what the people are thinking.

Mr. REA. I pass over to Denis who, that is his area of interest.

Mr. SMITH OF NEW JERSEY. Thank you.

Mr. BRADLEY. I think this was one of the most important recommendations that came into the Patten Report as a piece of policing architecture, not just for Ireland, but for any country in the world, any civilized democratic society.

It was Ronnie Flanagan who said that policing was too important to be left to police. I think most major institutions in a democratic society are realizing that professionals cannot be left to their own devices. I think even major churches have found that, that unless you engage with the totality and the total engagement with all of those who constitute that institution, whatever it may be, then you create an ill health or a divergence which is unhealthy.

And I think one of the things that Patten understood was that you had to police from the bottom up, and not from the top down. Now, that is going to take time. Patten's program was always a 10-year program. He always said that this would take 10 years to fully gain confidence, to fully bring about the transforming, to change around the tanker that was large and difficult, and that had its own culture and so forth.

But I think that the fact of changing from the ground up is actually correct. I think that even the intelligence world is now recognizing, in most countries, that real intelligence, true intelligence, true knowledge, non-perverted, non-prejudicial, comes from the ground up. And I think district Policing Partnerships are beginning that process, and will continue, hopefully, that process.

They actually know more or less the main contributors to that policing plan for the years to come, from 2000, for example, at the

moment 2006 to 2009. That mainly comes from the bottom up. It is their issues that are the issues that mainly inform the overall policing plan that the police are held to account on, that the Board oversees, that the Board works together with.

They are mainly non-political contentious issues. They are mainly things like anti-social behavior. They are mainly issues around violence on the streets. They are mainly about old people being burgled. They are mainly about the things that inform and concern people in any society. It is healthy to see that.

I think that in the next 4 years, their engagement will be made perhaps even more proactive, as they drive, encourage, cajole, and teach the police how to actually engage with those more difficult communities that sometimes exist in every society. Whether they are young people, whether they are ethnic communities, which is a growing problem in Northern Ireland in the sense that we are now becoming a much more diverse society. But that all of that I think is beginning to be led, and will be led—and it was part of the genius, in my opinion, of the Patten Report.

And he didn't draw it from Northern Ireland. He had looked internationally across the world, including this country, and realized that unless you root this and control this and grow this out of the most local, the neighborhood, that you will not end up with good policing.

Mr. SMITH OF NEW JERSEY. Do the DPPs also act as a recruitment vehicle?

Mr. REA. No.

Mr. SMITH OF NEW JERSEY. It doesn't in any way facilitate confidence-building?

Mr. REA. No.

Mr. SMITH OF NEW JERSEY. Okay. Let me ask you, and I asked this of Ambassador Reiss earlier, the reports that we have seen that the British Government has announced at MI-5 is to take over primacy for intelligence-gathering in Northern Ireland.

In your view, will that diminish accountability? Is there any danger that this will take us back to a system that you had with the old RUC Special Branch? Especially since, if my understanding is correct, the Policing Board will not have the ability to oversee what happens with MI-5.

Mr. REA. I think the most honest answer to that is that this is a hot current debate. There is a growing agreement among all the political parties in Northern Ireland that this has to be debated. They really haven't had time to get that debate properly constituted. That is not helped by the fact that there is perhaps not enough engagement among the political parties.

It is a debate that the Policing Board itself has been informed about, has had some presentations on, but has not had yet an opportunity to actively get engaged in properly.

I think it will be one of the main priorities of the new Policing Board as it comes into effect next month, and I certainly think it will be an issue there.

Mr. BRADLEY. Let me say this, just as a follow-up. I think it is only proper, you have been very honest around these things.

I don't have any great difficulty where I come from and where I grew up, and where my political allegiance is and ideologies lie,

that I believe that collusion was a very big part of what was the problem of policing in Northern Ireland.

When people say that they want positions to try to find out whether there was collusion or not, I scratch my head and say, and most of the people that I engage with started from the position that of course there was collusion. There was a war on, a very nasty, dirty war. Everybody was about collusion, and the government was as much about collusion or informing collusion, because armies and police stood outside communities and had to recruit people, and had to use people and abuse people. As in all war situations.

No one has yet described for me or found for me in history a clean war. And our war was just about as nasty, in a peculiar way, because it was a smaller war, and it was amongst neighbors almost. It wasn't big armies coming in and pitching tents and fighting battles. It was small local neighborhoods, and it was quite nasty.

I am also convinced, having come from the community that I have come from, that there has been an enormous deep change within the police service itself. I think that the coming together of serious crime, the integration of Special Branch into normal policing, overseen by detectives, by other people, by people who are experienced, by the breaking down of the silos—and that has been overseen by myself and the Chairman here over the last 2 to 3 years—I think that the change in that is quite enormous.

I also think that, and it is a personal belief of mine, governments need to be very careful not to destroy any of that incredibly good work. Incredibly good work.

Mr. REA. It is useful to answer your question in two ways. The first thing is Rea alleged to the relationship between Special Branch and the investigation of crime. That was a big issue that arose out of Omagh. And there were a series of recommendations made by the Ombudsman.

There had been a report initiated before that, with its own recommendations. Basically, the Board set in motion processes to ensure that those recommendations were followed through. And as Denis has said, the two of us were delegated by the Board to relate to the PSNI.

But in addition, we asked Her Majesty's Inspector of Constabulary to confirm for us that on the ground, the recommendations were being implemented. And indeed, at a later stage in that process, we encouraged the PSNI to make a full statement to the Board, which they did. And at an even later stage we encouraged them to make a statement to the Board in public session in respect of the implementation of that process.

So a great deal has already happened in that sphere. And indeed also we have had the former head of MI-5 come to the Board, and to talk. This was some 2½ years ago. And what we as a board would like to see, in terms of the moving forward of this, is to be assured that the proper protocols are in place, in terms of the future.

But as the Vice Chairman has said, basically there is a lot for the political parties to debate outside of the Board, also for the Board itself, the new Board to debate as it moves forward. The goal in this area is simply to ensure that proper accountability is taking

place. And as Mr. Bradley has said, to ensure that the initiatives of the past are not put in jeopardy.

Mr. SMITH OF NEW JERSEY. I appreciate that. And I appreciate your candor, because I can clearly see that you are deeply concerned about that, as well.

And I would just point out that the Patten language itself said, and I quote it: "The Police Service must remain equipped to detect and deal with terrorist activity, and for this they will need good intelligence capability."

But again, that needs to have the oversight of both yourselves and the Police Ombudsman in order to ensure that we don't see this kind of activity, and the collusion that you so candidly spoke about a moment ago.

Mr. BRADLEY. Can I just say one thing about that? Because you mentioned it in your statement, Mr. Chairman, if you don't mind.

Mr. SMITH OF NEW JERSEY. Sure.

Mr. BRADLEY. There was one reference to the awful killing, and Mr. Knight is referred to in that article, right? Which I think that incident gives me the chills. It happened not very far from where I live. I know some of the people involved, and I think it was horrendous, one of the most awful deeds of that period of time.

But I think some of the press media speculation around that has been quite chilling, too. I just want to put that in, too. I think it has been quite chilling, and I wouldn't stand over it. And I think it will have a life of its own in the next period of time. But I wouldn't use it as a piece of hard evidence at this moment in time.

Mr. SMITH OF NEW JERSEY. All right, thank you.

Mr. REA. Can I add one thing, too? Because I think what you have echoed and what you have said today is a concern about dealing with the past. And I know that I speak on behalf of the Vice Chairman when I say this.

The Northern Ireland community as a people have got to decide how they wish to deal with the past, and to take ownership of it. And we are on record, and we gained the permission of the Board to put this in the public sphere. And that is not to say that everyone agreed with it, but they gave us the freedom to do so. That basically some body should be set up in Northern Ireland to look at the past, to learn from the past, and to see how we can learn from it in such a way that we can embrace the future. Because there is so much hurt in Northern Ireland, on all sides.

But our principal point is that the people in Northern Ireland must take ownership of this. They must decide how they wish to deal with it, and move forward with it. I hope you don't mind me making the comment.

Mr. SMITH OF NEW JERSEY. No, I appreciate that. Let me just ask a couple of final questions.

How much oversight does the Board have over the Chief Constable? And let me just say parenthetically that those of us who have met with him, and I have met with him a few times, other Members of Congress have, and I think the people of Northern Ireland have been well-served by his leadership. But there was that recent case where a Loyalist solicitor was bugged while advising his client, and then later charged for his activities. And that cer-

tainly has stirred up a tempest among the other defense attorneys, and rightfully so.

Have you looked at that case? And what is your reaction to that?

Mr. REA. Could I say that the Board has complete oversight in respect of the Chief Constable. In overall terms, any member of the Board can ask a question of the Chief Constable on any subject. A committee of the Board has every right to throw up questions to be put to the Chief Constable.

Members of the public can filter questions in, through members or through the Chairman or the Vice Chairman to the Chief Constable. As to whether it is taken in private or in public will be determined ultimately by the member. I will say at the monthly meeting this question came from you, do you want it in the private session or the public session.

The Chief Constable may well say, for various reasons, could be a case of sub judiciae, it could be a personnel case, he may well say I am likely to give you more information in the private session rather than the public session.

But at the end of the day, if a member says no, I want it in the public session, he can ask or she can ask whatever question they so desire. And therefore, he is held fully to account.

In respect of the particular case under discussion, I would imagine that will be a question done before the new Board at its first meeting in April.

Mr. BRADLEY. Could I just perhaps—I had a bit of scrutiny over this for a different reason. We have and we run a group of people called Custody Visitors, who have total access to any Police Service, any police post in Northern Ireland at any stage of the day or night. And have to gain access within a few minutes of arriving there.

And if they don't get access within a couple of minutes, that is reported to us within the next couple of weeks. And we will very quickly get onto why it was so.

So this issue about a police station being bugged, that obviously came into that because our custody visitors can also observe, to a degree, interviews that are happening. So I just wanted to say that that came into being known.

This is an ongoing case, and I don't want to go into too much or in too great a depth, because it hasn't reached court, and therefore I can't really comment upon it. But in the scrutiny of this, it would appear—and I am not standing over this, it would appear—that the legislation is perhaps more complex regarding this than has come into the public domain, certainly the media level.

It would appear, and I use that word advisedly, that all of the legislation appropriate to this case was actually used. But I will not stand over that, and I won't comment on it past the point that it is an ongoing case, and it will come to court. And there will be issues that will be raised, and it will be dealt with in court.

Mr. SMITH OF NEW JERSEY. Let me just ask a couple of final questions again. If Sinn Fein agreed to join the Policing Board, in your opinion will the DUP quit?

And secondly, is it time—and this is to the Chairman, and this may be a little sensitive, given your position—but might it not be time for the new Policing Board to have a Chair of a Nationalist

community background? Is that something that is at least being looked at by the Board, perhaps as a confidence builder, and for other reasons, as well?

And then finally, let me just ask you on the question of plastic bullets and the TASERs, which my understanding is both you and Nuala alone have, at least on the new plastic bullets, have agreed should be used. Are they used in other parts of the UK? And how was that process arrived at?

Mr. REA. Can I have the first question first?

Mr. SMITH OF NEW JERSEY. Sure.

Mr. REA. If you would repeat, give me the first question.

Mr. SMITH OF NEW JERSEY. The first one was, if Sinn Fein agreed to join the Board, is it likely that the DUP would quit?

Mr. REA. Well, let me say I deliberately rephrased my opening remarks, that as and when there is a political settlement between the two governments and the political parties in Northern Ireland, on the back of that, then there are two seats on this Board. But that presupposes, given that the DUP is the largest party, that they concur with that political settlement.

So the answer to your question is that following upon a political settlement, I would have thought that they would come on the Board, and the DUP would stay on the Board and make its contribution.

In respect of your second question. As you said that that is a matter of some delicacy, and no doubt as someone who depends on votes if the votes are there for a Nationalist, God bless him or her.

And in respect of TASERs, the answer to your question is yes, in terms of the United Kingdom. The United Kingdom sanctioned by the Home Office. And I believe that they have been used. But Denis, you could—

Mr. SMITH OF NEW JERSEY. Does that go as well for the new plastic bullet?

Mr. BRADLEY. Yes.

Mr. SMITH OF NEW JERSEY. How was that arrived at? If you could tell the record, or whatever you could provide that for us.

Mr. BRADLEY. Well, there are two different issues here, and they are complex.

There was the old baton round, as it was described. And then research came up supposedly with, that is a contentious issue obviously, but what is a safer plastic baton round, in the sense it was more accurate.

They have been used in other parts of the United Kingdom. They are not only used in public order situations. And the Ombudsman oversees every round that is fired. And that includes the hundreds of rounds that were fired at the outbreak of public order after the Orange Parade last summer.

Obviously, she cannot perhaps oversee every exact, but she is seeing it as a lot. And that is still going on at this moment in time.

The oversight over that issue is as meticulous as it is over most other things under the Ombudsman mantle. So that still goes on.

The TASER issue is slightly different. The AEP had to come through the Board, because the Board, on Patten, any new, novel, contentious, that also has financial implications, has to come to the

Board. So the Board has a financial responsibility, and contentious, novel issues have to come to the Board.

So they came to that. There was a bit of a dispute. It was just not a version two of the thing, but the Board insisted, and the Chief Constable agreed, that it would come and be discussed with the Board.

And I think that was an openness on behalf of the Chief Constable, and I also think it was a good oversight by the Board, and a proper oversight, given that we have still contentious issues around. Because plastic bullets are a very deeply emotional issue in Northern Ireland. Our children have been killed by them, within circumstances that were not always appropriate, including the son of a very dear friend of mine. So this is a difficult, difficult area.

TASERs are slightly different. They are highly used in this country. They are highly used across the world. They are highly used—well, not highly, but they are used in Britain, as well. Personally, I think that they are an abomination, if you look at them and the way they work. But I think that they feed, where the Chief Constable was only talking about 12, they are only obviously going to be used in very hopefully peculiar circumstances, perhaps.

But I think this feeds a bigger debate, which is Patten-based, in my opinion, and which is not really taking place, but hopefully it does take place both among the civil rights groups in Northern Ireland and among the political parties in Northern Ireland. Is that Patten recommended that we should, every so often, look at the possibility of an unarmed Police Service. But he said that that could only take place when the technology and when the oversight of less lethal weapons actually took place.

Now, it is a difficult area. My father used to say a pen in the wrong hands is a lethal weapon, in the sense that you can put it into somebody's eye and kill them. So less lethal doesn't mean all that much in real terms, because it depends on the person behind it.

But I think that the oversight has certainly improved. I think that the Ombudsman having oversight of the plastic baton rounds has incredibly helpful. Up until this summer they almost had disappeared out of public use, until this summer. And unfortunately, they are in use again this summer.

TASERs, I do think, have probably a role as a substitute to a light bullet, in certain circumstances. But thankfully, thankfully, at the Board's behest and with the consent of the Chief Constable, there is a public consultation going on about that at this moment in time. And I hope people, particularly doctors and people from the medical profession, put their submissions into that public consultation which is going on at the moment. Because I think Amnesty International has rightly pointed out that there are health issues around this, and health concerns around this.

And again, there are disputes around that. I think you do not ignore Amnesty International's input into these issues, and therefore it should be taken on board and discussed. And I think the people who have most to say about this are the people who are at the cutting edge of this when they have to deal with people perhaps who have been at the end of TASERs.

Mr. SMITH OF NEW JERSEY. Mr. Chairman and Mr. Vice Chairman, thank you so much for your testimony and for your leadership. It was great to have you here. And we will add that to the record. And I look forward to reading each of them.

Thank you so much.

I would like to now invite our third panel to the witness table, beginning first with Maggie Beirne, who is the Director of the Committee on the Administration of Justice, which is a leading independent cross-community human rights group based in Belfast, Northern Ireland.

The organization was awarded the Council of Europe's Human Rights Prize for its efforts to place human rights at center stage in the peace-building process.

Prior to working with the CAJ, which she has done for the last 9 years, Maggie worked for 17 years at the International Secretariat of Amnesty International.

We will then hear from Jane Winter, who is currently the Director of British Irish Rights Watch. Previously Ms. Winter worked as a researcher in two London social service departments, where she worked on the needs of children, including mentally handicapped, and the elderly. From 1990 until 1994 she was the Project Coordinator for the Public Law Project, which promotes access to public law remedies, such as judiciary review and advantage.

We will then hear from Archana Pyati, who serves as Senior Associate in the Human Rights Defenders Program at Human Rights First. Previously Archana was the Equal Justice Works Fellow with the Asylum Program of Human Rights First.

As a University of Michigan Fellow, ad hoc, a Cambodian human rights organization, she helped advocate for the basic human rights of prisoners and trafficked women. Through the University of Michigan's program on Refugee and Asylum Law, she received a fellowship to work with Jesuit refugee services in Zambia.

If we could begin first with Maggie.

Ms. BEIRNE. Is it okay if Jane Winter starts?

#### **STATEMENT OF MS. JANE WINTER, DIRECTOR, BRITISH IRISH RIGHTS WATCH**

Ms. WINTER. Thank you, Mr. Chairman.

As you know, British Irish Rights Watch is an independent non-governmental organization that has been monitoring the human rights dimension of the conflict and the peace process in Northern Ireland since 1990. Our services are available free of charge to anyone whose human rights have been violated because of the conflict, regardless of religious, political, or community affiliation, and we take no position on the eventual constitutional outcome of the conflict.

We welcome this opportunity to address this honorable Subcommittee on the subject of the Police Service of Northern Ireland, the PSNI's attempts to resolve conflict-related murders committed prior to the 1998 Good Friday Agreement. We thank the Chair and the Members of the Committee for their continuing interest in human rights in Northern Ireland, and in particular we thank Chairman Chris Smith for his steadfast concern and support.

My testimony concerns a unique exercise by the PSNI in dealing with unsolved murders arising from the conflict. The PSNI has set up the Historical Enquiries Team, the HET, to address the majority of cases arising out of the Northern Ireland conflict during the period 1st of January 1969 to 19th of April 1998 when the Good Friday Agreement was signed.

There were 3,773 murders during that time, and the HET will be looking at 3,268, or 87 percent, of them. The outstanding 505 cases which are not deemed to be conflict-related do not come within their agreement.

We welcome the fact that the HET has stated publicly and privately to NGOs and families that it will conduct itself in a family-centered way. The HET have recognized that while their primary task is to reexamine unsolved murders, and to look for evidential opportunities in the hopes of bringing those responsible to book, their enquiries are likely to turn up many answers to questions which would not form part of any prosecution.

They have committed, so far as possible, to sharing that information with families, who are often more interested in knowing why their loved one was killed than who killed them, or how. Families also want to know why no one was made amenable for the murders.

The HET is a unique experiment. No other police service in the world has, so far as we know, attempted such an ambitious program for clearing up unresolved murders. BIRW will be monitoring the HET very closely, and we welcome the fact that the HET has agreed to allow Dr. Patricia Lundy of the University of Ulster to conduct independent research into its work. Such transparency is admirable, and should allow for a proper evaluation of this innovative project.

However, BIRW and other human rights groups have a number of concerns about the work of the HET, which are not necessarily criticisms, but which certainly raise questions.

First and foremost, despite its attempts to make itself as independent as possible of the rest of the PSNI, the HET is nonetheless part of the PSNI, and its work will take the form of the police investigating themselves. This will not satisfy some victims, especially where the police themselves may have been responsible for a death, or where there are allegations of state collusion in the murder.

The European Court of Human Rights has already held that investigations into deaths caused by the security forces, whether by the police or the army, or where there has been collusion, do not provide an effective investigation under the terms of article 2 of the European Convention on Human Rights, which protects the right to life.

My colleague, Maggie Beirne, from the Committee on the Administration of Justice, will be discussing the widespread nature of collusion in Northern Ireland over the years, and its appalling impact.

In November 2005, the Council of Ministers in Europe held that the HET could not deliver an article 2-compliant investigation.

In our estimation, there were 55 deaths caused by the Royal Ulster Constabulary, the RUC, as the PSNI was formerly called during the period which the HET will be covering. They are listed at

Annex A of our written submission, and I respectfully request that our total submission be read into the record.

Mr. SMITH OF NEW JERSEY. Without objection, so ordered.

Ms. WINTER. Thank you. Of the 55 persons killed by RUC officers, 32 were age 25 or under. Eight of them were under 18. Four were aged over 60. The youngest victim was nine, and the oldest was 77. All but two of those who were killed were male.

Forty-five of those killed were Catholics, as opposed to eight Protestants, and two whose religion is unknown. Thirty-two of those killed were civilians. Seventeen were Republican paramilitaries, while only three were Loyalists. One police officer and two soldiers were also killed by the RUC. Forty-five of those killed were shot, three were beaten to death, and one died when his car was rammed.

We are aware of only five prosecutions arising out of killings by the RUC, involving eight victims. In every case, the police officers concerned were acquitted. The details are set out in Annex B of our written submission.

It is worth looking at those cases for a moment. In the case of *The Queen v. Robinson*, RUC Constable John Robinson, a member of the RUC's undercover Special Support Unit and a former British soldier, shot two unarmed suspected members of INLA, a Republican paramilitary group, Seamus Grew and Roddy Carroll, as they were driving to Grew's home. The car was intercepted by a police surveillance car, and Robinson fired 15 shots at Carroll, reloaded his weapon, and then shot Grew as he tried to escape from the car.

At the time, the police concocted a story that the victims had been shot after driving through a roadblock. At his trial Robinson admitted the roadblock story had been invented after consultations with senior police officers.

Robinson's plea of self-defense was accepted, however, by the judge, McDermott, who expressed the view that, and I quote: "While policemen are required to act within the law, they are not required to be supermen; and one does not use jeweller's scales to measure what is reasonable in the circumstances."

In *R v. Montgomery and Others*, it dealt with the deaths of Gervaise McKerr, Eugene Toman, and Sean Burns, when an RUC patrol from the Special Support Unit opened fire on the three unarmed IRA suspects' car. At the end of the prosecution case, Lord Justice Gibson accepted the defense's submission that there was no case to answer. Acquitting the police officers concerned, Lord Justice Gibson commended their, and I quote: "Courage and determination in bringing the three deceased men to justice; in this case, the final court of justice."

The deaths of Crew, Carroll, Toman, Burns, McKerr, and Michael Tighe, all of whom were killed by police officers in the space of 1 month in 1982, were investigated by the Stalker/Sampson inquiry. Stalker concluded that there were grounds for charging a number of police officers, and Sampson's report was eventually referred to the Director of Public Prosecution.

However, in January 1988, the Attorney General, Sir Patrick Mayhew, who later became Secretary of State for Northern Ireland, announced that eight RUC officers involved in a conspiracy to per-

vert the court of justice would not be prosecuted for reasons of national security.

In the case of *R v. Hanley*, Police Constable Timothy Hanley was accused of the murder of Kevin McGovern, an unarmed student with no paramilitary connections. The victim, who had been drinking with friends and was on his way with them to a disco, was shot in the back after running away from a police patrol, which was actively involved in the investigation of a paramilitary incident at the time. PC Hanley's plea of self-defense was accepted by Judge Nicholson, who said that the accused made "a tragic error of judgment." So these are very contentious cases.

There is further problem when it comes to deaths which were caused by police officers, which concerns who has jurisdiction to investigate such cases, and who has the appropriate powers to do so.

The Police Ombudsman has the power to investigate complaints made by a member of the public about the conduct of a member of the Police Service. This means she can only investigate the conduct of serving police officers, as retired officers are no longer members of the service. This has obvious ramifications for deaths caused by police officers as long ago as 1969.

Secondly, she cannot investigate complaints about police conduct which wholly or partly are or have been the subject of criminal or disciplinary proceedings. This clearly has implications for any past case where a police officer was prosecuted or was disciplined because of his or her part in a death.

Thirdly, it is our understanding that in the majority of cases, the Police Ombudsman can only investigate the conduct of a police officer, rather than investigating any crime for which that officer may have been responsible.

However, where a police officer is responsible for causing a death, the Chief Constable must refer the matter to the Police Ombudsman, who must investigate the killing.

The Police Ombudsman also has the power to call herself in to investigate any case where she believes a police officer may have committed a criminal offense, even though she has not received a complaint, and the case has not been referred to her by anyone.

In conducting such investigations, the Police Ombudsman has all the powers of the police. If the Police Ombudsman finds a criminal offense may have been committed by a police officer, she must send a report to the Director of Public Prosecutions, together with her recommendations.

However, if a death arose before the Police Ombudsman's office came into existence on the 6th of November 2000, the Police Ombudsman has discretion about whether to investigate the case because of the gravity of the matter or because of exceptional circumstances. This means that in cases where there has been no previous prosecution or disciplinary action, the Police Ombudsman can call herself in to investigate deaths caused by police officers if she sees fit, but she is under no obligation to do so.

A potential extra 55 cases, all of them of the utmost gravity, will undoubtedly put a strain on the Police Ombudsman's resources. We understand the Northern Ireland office has made it clear that it has no intention of making any extra resources available for this

additional work, which is a matter this Committee may wish to pursue.

The HET's budget, while considerable, was originally intended to cover 2,100 murders over a 4-year period, rather than 3,268 over 6 years, which is what, in fact, they are going to have to look at. And that amounts to a 42-percent cut in resources per case.

Since the HET can have no control over spending by the Police Ombudsman, whose own budget for 2004 was £7.4 million, compared to the HET's budget of 3.9 million per year over 6 years, without inflation, it will be difficult for the HET to absorb the Police Ombudsman's costs.

The HET is already investigating some cases from 1969, when seven deaths were caused by the RUC. The Police Ombudsman has yet to start work on those cases. We are concerned that the relatives of those people may have to wait longer to find out the truth about what happened to their loved ones than families whose cases are investigated by the HET.

Another concern about the investigation of deaths caused by police officers is that, while the HET says that it will place the families of victims at the heart of its work, the Police Ombudsman is, in our experience, much less family-centered.

Although she appoints a Family Liaison Officer to work with each complainant where she conducts a formal investigation, and has told us that they are in contact with the family at least once every 6 weeks, we have been told by families that they rarely hear from the Police Ombudsman's office; that they are often in the dark about what is happening in her investigation, and that their telephone calls are not returned.

BIRW has attended a number of meetings between families at the Police Ombudsman's office, and families and the HET. And we have to say that the HET is much warmer and more open with families than the Police Ombudsman. Other human rights groups have found the same.

Equally, while the HET welcomes assistance from human rights groups, the Police Ombudsman seems not to recognize the useful and helpful role that we can play in supporting families through what are often very difficult experiences while their loved ones' cases are being reinvestigated. The Police Ombudsman also takes a very strict view of the rules governing confidentiality, and often seems reluctant to share information with families, let alone their legal representatives or human rights groups.

The HET inquiries may reveal patterns which will be important to understanding the past in Northern Ireland, but it is unclear whether their findings will be made public, and what action, if any, will be taken in relation to such revelations. It is also unclear what will happen in cases where the HET is unable to find any new evidence at all.

For all these reasons, BIRW is concerned that not everyone will benefit equally from the revisiting of unsolved conflict-related deaths. Those whose loved ones were the victims of collusion or whose deaths were caused by the security forces may not receive the independent effective investigation to which they are entitled under article 2 of the European Convention on Human Rights, while those whose loved ones were killed by RUC officers may not

receive the same type of investigation as other cases investigated by the HET, despite the fact that these 55 cases are among the most contentious of the killings that remain unresolved.

We thank this Committee for their interest and their support for human rights in Northern Ireland.

[The prepared statement of Ms. Winter follows:]

**SUBMISSION BY JANE WINTER,  
DIRECTOR, BRITISH IRISH RIGHTS WATCH,  
TO THE HOUSE COMMITTEE ON INTERNATIONAL RELATIONS  
15 MARCH 2006**

1. British Irish RIGHTS WATCH is an independent non-governmental organisation that has been monitoring the human rights dimension of the conflict, and the peace process, in Northern Ireland since 1990. Our services are available, free of charge, to anyone whose human rights have been violated because of the conflict, regardless of religious, political or community affiliations. We take no position on the eventual constitutional outcome of the conflict.
2. We welcome the opportunity to address this honourable Sub-Committee on the subject of the Police Service of Northern Ireland's (PSNI) attempts to resolve conflict-related murders committed prior to the 1998 Good Friday peace agreement. We thank the Chair and members of the Committee for their continuing interest in human rights in Northern Ireland, and in particular we thank Chairman Chris Smith for his steadfast concern and support.
3. My testimony concerns a unique exercise by the Police Service of Northern Ireland (PSNI) in dealing with unsolved murders arising from the conflict. The PSNI has set up the Historical Enquiries Team (HET) to address the majority of cases arising out of the Northern Ireland conflict during the period 1<sup>st</sup> January 1969 to 19<sup>th</sup> April 1998. There were 3,773 murders during that time, and the HET will be looking into 3,268, or 87%, of them. The outstanding 505 cases are not deemed to be conflict-related.
4. We welcome the fact that the HET has stated publicly and privately to NGOs and families that it will conduct itself in a family-centred way. The HET have recognised that, while their primary task is to re-examine unsolved murders and to look for evidential opportunities in the hopes of bringing those responsible to book, their enquiries are likely to turn up many answers to questions which would not form part of any prosecution. They have committed, so far as possible, to sharing that information with families, who are often more interested in knowing why their loved one was killed than who killed them or how. Families also want to know why no-one was made amenable for the murders.
5. The HET is a unique experiment. No other police service in the world has, so far as we know, attempted such an ambitious programme for clearing up unresolved murders. BIRW will be monitoring the HET very closely, and we welcome the fact that the HET has agreed to allow Dr Patricia Lundy of the University of Ulster to conduct independent research into its work.

Such transparency is admirable and should allow for a proper evaluation of this innovative project.

6. However, BIRW and other human rights groups have a number of concerns about the work of the HET, which are not necessarily criticisms, but which certainly raise questions.
7. First and foremost, despite its attempts to make itself as independent as possible of the rest of the PSNI, the HET is nonetheless part of the PSNI and its work will take the form of the police investigating themselves. This will not satisfy some victims, especially where the police themselves may have been responsible for a death, or where there are allegations of state collusion in the murder. The European Court of Human Rights<sup>1</sup> has already held that investigations into deaths caused by the security forces, whether by the police or the army, or where there has been collusion, do not provide an effective investigation under the terms of Article 2 of the European Convention on Human Rights, which protects the right to life. My colleague, Maggie Beirne of the Committee on the Administration of Justice, will be discussing the widespread nature of collusion in Northern Ireland over the years and its appalling impact. In November 2005, the Council of Ministers in Europe held that the HET could not deliver Article 2 compliant investigations<sup>2</sup>.
8. In our estimation there were 55 deaths caused by the Royal Ulster Constabulary (RUC), as the PSNI was formerly called. They are listed at Annex A of our written submission. Of the 55 persons killed, 32 were aged 25 or under (8 were under 18). Four were aged over 60. The youngest victim was 9 and the oldest was 77. All but two of those killed were male.
9. Forty five of those killed were Catholics, as opposed to 8 Protestants and two whose religion is unknown. 32 of those killed were civilians. 17 were republican paramilitaries, while only 3 were loyalists. One police officer and two soldiers were also killed by the RUC. 45 of those killed were shot, 3 were beaten to death, and one died when his car was rammed.
10. We are aware of only five prosecutions arising out of killings by the RUC, involving 8 victims. In every case the police officers concerned were acquitted. The details are set out at Annex B of our written submission.
11. In R v Robinson<sup>3</sup> RUC constable John Robinson, a member of the RUC's undercover Special Support Unit and a former British soldier, shot two

<sup>1</sup> See, for example, Jordan v UK, ECtHR, 2001, Application number 24746/94; Kelly & others v UK, ECtHR, 2001, Application number 30054/96; Shanaghan v UK, ECtHR, 2001, Application number 37715/97; and McKerr v UK, ECtHR, 2001, Application number 28883/95

<sup>2</sup> Cases concerning the action of security forces in Northern Ireland, CM/Inf/DH(2005) 21 revised 3 Addendum, 23 November 2005

<sup>3</sup> (1984) 4 NIJB

<sup>4</sup> (1984) *Guardian*, 5 June 1984

unarmed suspected members of INLA, Seamus Grew and Roddy Carroll, as they were driving to Grew's home. Their car was intercepted by a police surveillance car, and Robinson fired 15 shots at Carroll, reloaded his weapon, then shot Grew as he tried to escape from the car. At the time, the police concocted a story that the victims had been shot after driving through a roadblock. At his trial, Robinson admitted that the roadblock story had been invented after consultations with senior police officers. Robinson's plea of self-defence was accepted by MacDermott J, who expressed the view that

"... while policemen are required to act within the law they are not required to be supermen and one does not use jeweller's scales to measure what is reasonable in the circumstances."

12. R v Montgomery and Others dealt with the deaths of Gervaise McKerr, Eugene Toman and Sean Burns when a RUC patrol from the Special Support Unit opened fire on the three unarmed IRA suspects' car. At the end of the prosecution case, Gibson LJ accepted the defence's submission that there was no case to answer. Acquitting the police officers concerned, Gibson LJ commended their  
"....courage and determination in bringing the three deceased men to justice; in this case to the final court of justice."
13. The deaths of Grew, Carroll, Toman, Burns, McKerr and Michael Tighe, all of whom were killed by police officers in the space of one month in 1982, were investigated by the Stalker/Sampson inquiry. Stalker concluded that there were grounds for charging a number of police officers, and Sampson's report was eventually referred to the Director of Public Prosecutions. However, in January 1988 the Attorney General, Sir Patrick Mayhew (later Secretary of State for Northern Ireland) announced that eight RUC officers involved in a conspiracy to pervert the course of justice would not be prosecuted for reasons of national security.
14. In the case of R v Hanley<sup>5</sup> Police Constable Timothy Hanley was accused of the murder of Kevin McGovern, an unarmed student with no paramilitary connections. The victim, who had been drinking with friends and was on his way with them to a disco, was shot in the back after running away from a police patrol which was actively involved in the investigation of a paramilitary incident at the time. PC Hanley's plea of self-defence was accepted by Nicholson J, who said that the accused had made "a tragic error of judgement".
15. There is a further problem when it comes to deaths which were caused by police officers, which concerns who has jurisdiction to investigate such cases and who has the appropriate powers to do so.
16. The Police Ombudsman has the power to investigate complaints made by a member of the public about the conduct of a member of the police

---

<sup>5</sup> (1993)

service<sup>6</sup>. This means that she can only investigate the conduct of serving police officers, as retired officers are no longer members of the service. This has obvious ramifications for deaths caused by police officers as long ago as 1969.

- 17. Secondly, she cannot investigate complaints about police conduct which wholly or partly are or have been the subject of criminal or disciplinary proceedings<sup>7</sup>. This clearly has implications for any past case where a police officer was prosecuted or was disciplined because of his or her part in a death.
- 18. Thirdly, it is our understanding that, in the majority of cases, the Police Ombudsman can only investigate the conduct of a police officer, rather than investigating any crime for which that officer may have been responsible. However, where a police officer is responsible for causing a death the Chief Constable must refer the matter to the Police Ombudsman<sup>8</sup>, who must investigate the killing<sup>9</sup>. The Police Ombudsman also has the power to call herself in to investigate any case where she believes a police officer may have committed a criminal offence, even though she has not received a complaint and the case has not been referred to her by anyone<sup>10</sup>. In conducting such investigations, the Police Ombudsman has all the powers of the police<sup>11</sup>. If the Police Ombudsman finds that a criminal offence may have been committed by a police officer, she must send a report to the Director of Public Prosecutions, together with her recommendations<sup>12</sup>.
- 19. However, when a death arose before the Police Ombudsman's remit came into force on 6<sup>th</sup> November 2000, the Police Ombudsman has discretion about whether to investigate a case "because of the gravity of the matter or the exceptional circumstances"<sup>13</sup>. This means that, in cases where there has been no previous prosecution or disciplinary action, the Police Ombudsman can call herself in to investigate deaths caused by police officers if she sees fit, but she is under no obligation to do so. A potential extra 55 cases, all of them of the utmost gravity, will undeniably put a strain on the Police Ombudsman's resources. We understand that the Northern Ireland Office has made it clear that it has no intention of making any extra resources available for this additional work, which is a matter this Committee may wish to pursue.

---

<sup>6</sup> Police (Northern Ireland) Act 1998, s. 52

<sup>7</sup> Ibid. s. 52 (9)

<sup>8</sup> Ibid. s. 55 (2)

<sup>9</sup> Ibid. ss. 55 (3) and 56

<sup>10</sup> Ibid. s. 55 (6)

<sup>11</sup> Ibid. s. 56 (3)

<sup>12</sup> Ibid. s. 58 (2)

<sup>13</sup> Royal Ulster Constabulary (Complaints etc) Regulations 2001, Regulation 6

- 20. The HET's budget, while considerable<sup>14</sup>, was originally intended to cover 2,100 murders over a four year period, rather than 3,268 over six years, which amounts to a 42% cut in resources per case<sup>15</sup>. Since the HET can have no control over spending by the Police Ombudsman, whose own budget for 2004 was £7.4 million, compared to the HET's budget of £3.9 million per year over six years without inflation, it would be difficult for the HET to absorb the Police Ombudsman's costs.
- 21. The HET is already investigating some cases from 1969, when seven deaths were caused by the RUC. The Police Ombudsman has yet to start work on those cases. We are concerned that the relatives of those people may have to wait longer to find out the truth about what happened to their loved ones than families whose cases are investigated by the HET.
- 22. Another concern about the investigation of deaths caused by police officers is that, while the HET says that it will place the families of victims at the heart of its work, the Police Ombudsman is, in our experience, very much less family-centred. Although she appoints a Family Liaison Officer to work with each complainant where she conducts a formal investigation, and has told us that they are in contact with the family at least once every three weeks, we have been told by families that they rarely hear from the Police Ombudsman's office, that they often are in the dark about what is happening with her investigation, and that their telephone calls are not returned. BIRW has attended a number of meetings between families and the Police Ombudsman's office and families and the HET, and we have to say that the HET is much warmer and more open with families than the Police Ombudsman. Other human rights groups have found the same. Equally, while the HET welcomes assistance from human rights groups, the Police Ombudsman seems not to recognise the useful and helpful role that we can play in supporting families through what are often very difficult experiences while their loved ones' cases are being re-investigated. The Police Ombudsman also takes a very strict view of the rules governing confidentiality, and often seems reluctant to share information with families, let alone their legal representatives or human rights groups.
- 23. The HET inquiries may reveal patterns that will be important to understanding the past in Northern Ireland, but it is unclear whether their findings will be made public and what action, if any, will be taken in relation to such revelations. It is also unclear what will happen in cases where the HET is unable to find any new evidence.
- 24. For all of these reasons, BIRW is concerned that not everyone will benefit equally from the revisiting of unresolved conflict-related deaths. Those whose loved ones were the victim of collusion or whose deaths were

<sup>14</sup> The HET's budget is £23.4 million – or £3.9 million per year – with another £7.7 million allocated for forensic work

<sup>15</sup> Leaving aside forensic costs

caused by the security forces may not receive the independent, effective investigation to which they are entitled under Article 2 of the European Convention on Human Rights; while those whose loved ones were killed by RUC officers may not receive the same type of investigation as other cases investigated by the HET, despite the fact that these 55 cases are among the most contentious of the killings that remain unresolved.

**MARCH 2006**

**ANNEX A****PERSONS KILLED BY THE ROYAL ULSTER CONSTABULARY BETWEEN 1969 AND 1998**

<b>14 July 1969</b>	<b>Francis McCloskey</b> (67) Catholic <b>Status:</b> Civilian (Civ), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Died one day after being hit on head with batons during street disturbances, Dungiven, County Derry.
<b>17 July 1969</b>	<b>Samuel Devenny</b> (42) Catholic <b>Status:</b> Civilian (Civ), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Died three months after being badly beaten in his home, William Street, Bogside, Derry.
<b>02 August 1969</b>	<b>Patrick Corry</b> (61) Catholic <b>Status:</b> Civilian (Civ), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Killed when hit on head with batons during altercation between local people and Royal Ulster Constabulary (RUC) patrol, Unity Flats, off Upper Library Street, Belfast.
<b>14 August 1969</b>	<b>Patrick Rooney</b> (9) Catholic <b>Status:</b> Civilian (Civ), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot at his home, during nearby street disturbances, St Brendan's Path, Divis Flats, Belfast.
<b>15 August 1969</b>	<b>Hugh McCabe</b> (20) Catholic <b>Status:</b> Civilian (Civ), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot during street disturbances while on the roof of Whitehall Block, Divis Flats, Belfast.
<b>15 August 1969</b>	<b>Samuel McLarnon</b> (27) Catholic <b>Status:</b> Civilian (Civ), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot at his home during nearby street disturbances, Herbert Street, Ardoyne, Belfast.
<b>15 August 1969</b>	<b>Michael Lynch</b> (28) Catholic <b>Status:</b> Civilian (Civ), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot during street disturbances, Butler Street, Ardoyne, Belfast.
<b>24 October 1971</b>	<b>Martin Forsythe</b> (19) Catholic <b>Status:</b> Irish Republican Army (IRA), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot by undercover RUC during bomb attack on Celebrity Club, Donegall Place, Belfast.
<b>10 February</b>	<b>Joseph Cunningham</b> (26) Catholic

<b>1972</b>	<b>Status:</b> Irish Republican Army (IRA), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot during gun battle, O'Neill's Road, Newtownabbey, County Antrim.
<b>01 March 1972</b>	<b>John Mahon</b> (16) Catholic <b>Status:</b> Civilian (Civ), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot while travelling in stolen car in Belfast city centre. Car abandoned outside Royal Victoria Hospital, Falls Road, Belfast.
<b>01 March 1972</b>	<b>Michael Connors</b> (14) Catholic <b>Status:</b> Civilian (Civ), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot while travelling in stolen car in Belfast city centre. Car abandoned outside Royal Victoria Hospital, Falls Road, Belfast.
<b>04 March 1972</b>	<b>Albert Kavanagh</b> (18) Catholic <b>Status:</b> Irish Republican Army (IRA), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot during attempted bomb attack on factory, Boucher Road, Belfast.
<b>13 September 1972</b>	<b>Robert Warnock</b> (18) Protestant <b>Status:</b> Ulster Defence Association (UDA), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot by off duty Royal Ulster Constabulary (RUC) member during attempted armed robbery at Hillfoot Bar, Glen Road, Castlereagh, Belfast
<b>17 May 1973</b>	<b>Michael Leonard</b> (22) nfNI <b>Status:</b> Civilian (Civ), <b>Killed by:</b> Royal Ulster Constabulary (RUC) From County Donegal. Shot while driving his car, being pursued by Royal Ulster Constabulary (RUC) vehicle, near Letter, County Fermanagh.
<b>15 November 1973</b>	<b>Michael McVerry</b> (23) Catholic <b>Status:</b> Irish Republican Army (IRA), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot during gun attack on Keady British Army (BA) / Royal Ulster
<b>20 March 1974</b>	<b>Michael Herbert</b> (31) nfNI <b>Status:</b> British Army (BA), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot, in error, while sitting in stationary British Army (BA) civilian type van, Mowhan, near Markethill, County Armagh.
<b>20 March 1974</b>	<b>Michael Cotton</b> (36) nfNI <b>Status:</b> British Army (BA), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot, in error, while sitting in stationary British Army (BA) civilian type van, Mowhan, near Markethill, County Armagh.
<b>05 April 1976</b>	<b>Sean McDermott</b> (20) Catholic <b>Status:</b> Irish Republican Army (IRA), <b>Killed by:</b> Royal Ulster Constabulary (RUC)

	Shot by off duty Royal Ulster Constabulary (RUC) member shortly after being involved in bomb attack on Conway Hotel, Dunmurry, near Belfast, County Antrim.
<b>11 June 1976</b>	<b>Edward Walker</b> (20) Protestant <b>Status:</b> Ulster Defence Association (UDA), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot while travelling in stolen car along Doagh Road, Newtownabbey, County Antrim.
<b>01 July 1980</b>	<b>Terence O'Neill</b> (26) Catholic <b>Status:</b> Irish Republican Army (IRA), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot while running away from Whiterock Community Centre, Ballymurphy, Belfast.
<b>24 July 1980</b>	<b>Michael McCartan</b> (16) Catholic <b>Status:</b> Civilian (Civ), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot by undercover Royal Ulster Constabulary (RUC) member, in entry, off Dromara Street, Ormeau Road, Belfast.
<b>25 April 1981</b>	<b>Paul Whitters</b> (15) Catholic <b>Status:</b> Civilian (Civ), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Died 10 days after being shot by plastic bullet, Great James Street, Derry.
<b>09 July 1981</b>	<b>Nora McCabe</b> (30) Catholic <b>Status:</b> Civilian (Civ), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Died one day after being shot by plastic bullet, Linden Street, Lower Falls, Belfast.
<b>09 August 1981</b>	<b>Peter McGuinness</b> (41) Catholic <b>Status:</b> Civilian (Civ), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot by plastic bullet outside his home, Shore Road, Greencastle, Belfast.
<b>19 October 1981</b>	<b>Stephen Hamilton</b> (24) Protestant <b>Status:</b> Civilian (Civ), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot while travelling in stolen car at the junction of Ballygomartin Road and Woodvale Road, Belfast.
<b>28 September 1982</b>	<b>Ronald Brennan</b> (22) Protestant <b>Status:</b> Civilian (Civ), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot during attempted robbery at Mallusk Post Office, near Belfast, County Antrim.
<b>11 November 1982</b>	<b>Eugene Toman</b> (21) Catholic <b>Status:</b> Irish Republican Army (IRA), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot by undercover Royal Ulster Constabulary (RUC) members at Vehicle Check Point (VCP), Tullygalley East Road, Craigavon, County Armagh

<b>11 November 1982</b>	<b>Sean Burns</b> (21) Catholic <b>Status:</b> Irish Republican Army (IRA), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot by undercover Royal Ulster Constabulary (RUC) members at Vehicle Check Point (VCP), Tullygalley East Road, Craigavon, County Armagh.
<b>11 November 1982</b>	<b>Gervaise McKerr</b> (31) Catholic <b>Status:</b> Irish Republican Army (IRA), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot by undercover Royal Ulster Constabulary (RUC) members at Vehicle Check Point (VCP), Tullygalley East Road, Craigavon, County Armagh.
<b>24 November 1982</b>	<b>Michael Tighe</b> (17) Catholic <b>Status:</b> Civilian (Civ), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot by undercover Royal Ulster Constabulary (RUC) members at farm, Ballynerry Road North, near Lurgan, County Armagh.
<b>12 December 1982</b>	<b>Seamus Grew</b> (31) Catholic <b>Status:</b> Irish National Liberation Army (INLA), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot by undercover Royal Ulster Constabulary (RUC) members at Vehicle Check Point (VCP), Mullacreevie Park, Armagh.
<b>12 December 1982</b>	<b>Rodney Carroll</b> (22) Catholic <b>Status:</b> Irish National Liberation Army (INLA), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot by undercover Royal Ulster Constabulary (RUC) members at Vehicle Check Point (VCP), Mullacreevie Park, Armagh.
<b>20 January 1983</b>	<b>Frank McColgan</b> (31) Catholic <b>Status:</b> Civilian (Civ), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot during car chase, shortly after being involved in robbery, Black's Road, Dunmurry, near Belfast, County Antrim.
<b>16 March 1983</b>	<b>William Miller</b> (26) Protestant <b>Status:</b> Ulster Volunteer Force (UVF), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot while travelling in stolen car, Elmwood Avenue, off University Road, Belfast.
<b>26 July 1983</b>	<b>John O'Hare</b> (25) Catholic <b>Status:</b> Civilian (Civ), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot while running away after armed robbery at Taughnevin Post Office, Craigavon, County Armagh.
<b>13 August 1983</b>	<b>Brendan Convery</b> (25) Catholic <b>Status:</b> Irish National Liberation Army (INLA), <b>Killed by:</b> Royal Ulster Constabulary (RUC)

	Shot during attempted ambush of Royal Ulster Constabulary (RUC) members at security barrier, Dungannon, County Tyrone.
<b>13 August 1983</b>	<b>James Mallon</b> (28) Catholic <b>Status:</b> Irish National Liberation Army (INLA), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot during attempted ambush of Royal Ulster Constabulary (RUC) members at security barrier, Dungannon, County Tyrone
<b>28 November 1983</b>	<b>Brigid Foster</b> (77) Catholic <b>Status:</b> Civilian (Civ), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Passerby. Shot shortly after armed robbery at Post Office, Pomeroy, County Tyrone.
<b>12 December 1983</b>	<b>Anthony Dawson</b> (18) Catholic <b>Status:</b> Civilian (Civ), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot by off duty Royal Ulster Constabulary (RUC) member from passing car while standing in Mountpottinger Road, Short Strand, Belfast.
<b>14 May 1984</b>	<b>Seamus Fitzsimmons</b> (21) Catholic <b>Status:</b> Civilian (Civ), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot by undercover Royal Ulster Constabulary (RUC) members during attempted robbery at Post Office, Ballygalley, near Larne, County Antrim
<b>15 June 1984</b>	<b>Paul McCann</b> (20) Catholic <b>Status:</b> Irish National Liberation Army (INLA), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot during gun battle after Royal Ulster Constabulary (RUC) members surrounded house, Lenadoon Avenue, Belfast
<b>12 August 1984</b>	<b>Sean Downes</b> (22) Catholic <b>Status:</b> Civilian (Civ), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot by plastic bullet, during anti-internment march, Andersonstown Road, Belfast.
<b>17 December 1984</b>	<b>Sean McIlvenna</b> (33) Catholic <b>Status:</b> Irish Republican Army (IRA), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot shortly after being involved in land mine attack on British Army (BA) mobile patrol, near Blackwatertown, County Armagh.
<b>08 February 1985</b>	<b>Gerard Logue</b> (19) Catholic <b>Status:</b> Civilian (Civ), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot while sitting in stationary stolen car, Fort Street, off Springfield Road, Belfast.
<b>14 April 1986</b>	<b>Keith White</b> (20) Protestant <b>Status:</b> Civilian (Civ), <b>Killed by:</b> Royal Ulster Constabulary (RUC)

Died 15 days after being shot by plastic bullet, during street disturbances, Woodhouse Street, Portadown, County Armagh.

<b>09 August 1989</b>	<b>Seamus Duffy</b> (15) Catholic <b>Status:</b> Civilian (Civ), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot by plastic bullet while walking along Dawson Street, New Lodge, Belfast.
<b>09 November 1989</b>	<b>Ian Johnston</b> (31) Protestant <b>Status:</b> Royal Ulster Constabulary (RUC), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Undercover Royal Ulster Constabulary (RUC) member. Shot, in error, by other Royal Ulster Constabulary (RUC) member, during raid on house, Upper Meadow Street, New Lodge, Belfast.
<b>10 April 1991</b>	<b>Colm Marks</b> (29) Catholic <b>Status:</b> Irish Republican Army (IRA), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot while preparing mortar bomb, St Patrick's Avenue, Downpatrick, County Down.
<b>29 September 1991</b>	<b>Kevin McGovern</b> (19) Catholic <b>Status:</b> Civilian (Civ), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot by undercover Royal Ulster Constabulary (RUC) member, while walking along, Westland Road South, Cookstown, County Tyrone.
<b>29 September 1991</b>	<b>Kevin McGovern</b> (19) Catholic <b>Status:</b> Civilian (Civ), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot by undercover Royal Ulster Constabulary (RUC) member, while walking along, Westland Road South, Cookstown, County Tyrone.
<b>03 November 1991</b>	<b>Gerard Maginn</b> (17) Catholic <b>Status:</b> Civilian (Civ), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Found shot in abandoned stolen car, Glen Road, Andersonstown, Belfast.
<b>04 February 1992</b>	<b>Patrick Loughran</b> (61) Catholic <b>Status:</b> Civilian Political Activist (CivPA), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Sinn Fein (SF) member. Shot by off duty Royal Ulster Constabulary (RUC) member at Sinn Fein (SF) Advice Centre, Sevastopol Street, Lower Falls, Belfast.
<b>04 February 1992</b>	<b>Patrick McBride</b> (40) Catholic <b>Status:</b> Civilian Political Activist (CivPA), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Sinn Fein (SF) member. Shot by off duty Royal Ulster Constabulary (RUC) member at Sinn Fein (SF) Advice Centre, Sevastopol Street, Lower Falls, Belfast.

<b>04 February 1992</b>	<b>Michael O'Dwyer</b> (24) Catholic <b>Status:</b> Civilian (Civ), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot by off duty Royal Ulster Constabulary (RUC) member at Sinn Fein (SF) Advice Centre, Sevastopol Street, Lower Falls, Belfast.
<b>25 November 1992</b>	<b>Pearse Jordan</b> (21) Catholic <b>Status:</b> Irish Republican Army (IRA), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot shortly after his car was rammed by undercover Royal Ulster Constabulary (RUC) mobile patrol, Falls Road, Belfast.
<b>27 January 1994</b>	<b>Robin Maxwell</b> (27) Protestant <b>Status:</b> Civilian (Civ), <b>Killed by:</b> Royal Ulster Constabulary (RUC) Shot, during attempted robbery at petrol filling station, New Road, Donaghadee, County Down

Source: <http://cain.ulst.ac.uk/sutton/index.html>

**ANNEX B****PROSECUTIONS OF RUC OFFICERS**

DATE OF TRIAL	CASE	FORCE RESPONSIBLE	VICTIM(S)	OUTCOME OF TRIAL
1981	R v McKeown	police	Michael McCartan	Acquittal
1984	R v Robinson	police	Seamus Grew & Roddie Carroll	Acquittal
1984	R v Robinson, Montgomery & Brannigan	police	Gervaise McKerr, Eugene Toman, & Sean Burns	Acquittal
1987	R v Hegarty	police	John Downes	Acquitted of manslaughter
1993	R v Hanley	police	Kevin McGovern	Acquittal

Mr. SMITH OF NEW JERSEY. Ms. Winter, thank you so much for being here today, for being on the job for all these many years on behalf of justice and reconciliation in Northern Ireland. You have done an exemplary job, and you have been a tremendous witness here time and time again, providing very valuable insights. Thank you so very much.

Ms. Pyati.

**STATEMENT OF MS. ARCHANA PYATI, SENIOR ASSOCIATE,  
HUMAN RIGHTS DEFENDERS PROGRAM, HUMAN RIGHTS  
FIRST**

Ms. PYATI. Thank you, Chairman Smith. And thank you to you and Chairman Gallegly and Members of the Committee on International Relations for convening this hearing on Northern Ireland and the peace process, and for inviting me to share the views of Human Rights First at this critical time.

First of all, I would like to begin by expressing our gratitude, particularly to you, Chairman Smith, for your unwavering commitment to human rights, and your persistence in ensuring that these issues remain on the agenda of the United States Congress. We are very grateful to you for your leadership.

If there is no objection, Mr. Chairman, I would like to submit for the record a longer formal statement, and just read excerpts.

Mr. SMITH OF NEW JERSEY. Without objection.

Ms. PYATI. Thank you. Human Rights First believes strongly that peace and reconciliation in societies struggling to overcome a history of conflict, like Northern Ireland, will come only once there is official recognition of and accountability for the wrongs of the past.

Unless citizens from all sectors of society believe that their rights are protected by their governments, peace in Northern Ireland will never take strong root.

Policing reforms are a critical component in this transition. As you know, we have monitored closely and reported on efforts to transform the Police Service in Northern Ireland into a force representative of the population, and bound by the rule of law. Progress in policing reform is crucial, and is welcome.

But we believe that these efforts must be combined with a serious, honest, and transparent examination of government wrongdoing against its citizens. It is critical to the peace process that independent public inquiries are carried out in cases where there is evidence of government collusion and serious violations of human rights. Only if such inquiries are fair and transparent will there be public faith in their conclusion.

That is the message that Rosemary Nelson delivered to this Committee in 1998. Facing threats and harassment herself, she urged this body to press the UK Government for an independent inquiry into the murder of human rights lawyer Patrick Finucane.

Seven years ago today Rosemary Nelson was killed when a bomb set by the Loyalist Volunteer Force (LVF) exploded under her car. No one has yet been charged in her murder.

I would like to take the opportunity presented by today's hearing to provide this Committee with an update on the establishment of a public inquiry into her murder, as well as that of Patrick

Finucane, Robert Hamill, and Billy Wright, all cases in which there are serious allegations of collusion by British agents.

The record of progress here is mixed. There has been some progress, albeit slow, in the Nelson and Hamill cases. In the case of Billy Wright, the British Government has switched course in a way that is likely to undermine the investigation.

After the establishment of the Wright inquiry under the Prison Act, the British Government decided that the 2005 Inquiries Act should govern the inquiry instead, a move that threatens to undermine public faith in its conclusions. David Wright, Billy Wright's father, is seeking judicial review of this decision.

And there is still no inquiry, as you know, at all into the murder of Patrick Finucane. The UK Government has proposed that an inquiry into the Finucane case be held under the new Inquiries Act. As we outlined in testimony before you last year, Human Rights First believes that an inquiry into Finucane's death under the Inquiries Act would lack the transparency needed to ensure confidence in its results.

In February of this year, Secretary of State for Northern Ireland, Peter Hain, reiterated to Geraldine Finucane that the government's prime concern in any inquiry into her husband's death is the preservation of national security. It would appear that the government is placing a higher value on protecting the interests of security and intelligence services, the very agents who stand accused of collusion in Finucane's murder, over and above the interests of the family, the public, and the provision of justice.

A follow-up letter from Hain's office to Ms. Finucane confirmed the same. May I request that this letter be entered into the record?

Mr. SMITH OF NEW JERSEY. Without objection, it will be.

Ms. PYATI. Thank you. Ms. Finucane has written personally to every senior judge in England, Wales, and Scotland, urging them to decline participation in any inquiry into her husband's death held under the Inquiries Act. To date, the UK Government has not been able to identify any judge willing to take on the inquiry under the flawed terms of the Inquiries Act.

The Finucane family likewise has made clear that it will not participate in any inquiry held under the Inquiries Act, because it is hard to see how any inquiry under the Act can actually be clearly independent.

There is now some doubt whether the government will invest the time and money to hold an Inquiries Act inquiry without the participation of the family.

Just a few weeks ago, on February 22, Judge Cory delivered the McDermott Lecture at Queen's University in Belfast. In a spirited defense of public inquiries based on Canadian experience, the judge said it was better never to hold an inquiry than to leave the public believing there had been a whitewash.

Although he did not refer specifically to any of the inquiries he recommended as a result of the Weston Park Agreements on that occasion, Judge Cory later stated that the government had "moved the goalposts" in the Finucane case.

Furthermost, during Parliamentary debates on March 8, the Dail Eireann adopted a resolution calling for the British Government to reconsider its position and establish a "full, independent, public ju-

dicial inquiry into the murder of Patrick Finucane, as recommended by Judge Cory, which would enjoy the full cooperation of the family and the wider community throughout Ireland and abroad.”

The response from the Northern Ireland Office of the United Kingdom, issued the same day, called the debates “flawed and misleading.” The UK Government has fought for 17 years to escape accountability, and to keep the truth about its role in Finucane’s murder from his family, and also from the public. This has shattered public confidence in the inquiries.

Worse than inaction, the UK Government is poised to foreclose the possibility of a credible inquiry in the case altogether. This would be devastating, not only for the Finucane family, but for the cause of peace and reconciliation in Northern Ireland for years to come.

Human Rights First encourages Members of the Congress to scrutinize these inquiries as they progress, and to raise concerns about their fairness, effectiveness, and terms of reference with the British Government. Your oversight is critical.

Last year at this time we were assured by the British Government that none of these inquiries would be in any way governed by the new Inquiries Act. Those assurances were false. Given the significant deficiencies in the Inquiries Act, there is reason for grave concern that the United Kingdom will never live up to its commitment under the Weston Park Agreement, and public confidence in the results of the inquiries will be compromised.

The most urgent request we have is that you do everything you can to persuade the British Government to initiate an independent and public inquiry, one that complies with the recommendations made by Judge Cory, into government collusion in the murder of Patrick Finucane.

We thank you, Chairman Smith, Chairman Gallegly, and all your colleagues in the House, for your efforts to convey our concerns to Prime Minister Blair. We urge you to do all you can to ensure that President Bush sends the same message.

Thank you for the opportunity to share our views with you.

[The prepared statement of Ms. Pyati follows:]

PREPARED STATEMENT OF MS. ARCHANA PYATI, SENIOR ASSOCIATE, HUMAN RIGHTS DEFENDERS PROGRAM, HUMAN RIGHTS FIRST

INTRODUCTION

Chairman Smith, Chairman Gallegly, and members of the Subcommittee on Africa, Global Human Rights, and International Operations, and the Subcommittee on Europe and Emerging Threats, thank you for convening this hearing on the Northern Ireland Peace Process, and for inviting me to share the views of Human Rights First at this critical time.

I want to begin by expressing our gratitude, particularly to you, Chairman Smith, for your unwavering commitment to human rights and your persistence in ensuring that these issues remain on the agenda of the United States Congress. We are very grateful for your leadership.

Human Rights First’s mission—to protect and promote human rights—is rooted in the premise that the world’s security and stability depend on respect for human dignity and the rule of law in every part of the world. Human Rights First believes strongly that peace and reconciliation in societies struggling to overcome a history of conflict—like Northern Ireland—will come only once there is official recognition of and accountability for the wrongs of the past. Unless citizens from all sectors of

society believe that their rights are protected by their government, peace in Northern Ireland will never take strong root.

Policing reforms are a critical component in this transition. As you know, we have monitored closely and reported on efforts to transform the police service in Northern Ireland into a force representative of the population and bound by the rule of law. Progress in policing reform is crucial and welcome. But we believe that these efforts must be combined with a serious, honest, and transparent examination of government wrongdoing against its citizens. It is critical to the peace process that independent, public inquiries are carried out in cases where there is evidence of government collusion in serious violations of human rights. Only if such inquiries are fair and transparent will there be public faith in their conclusions.

That is the message that Rosemary Nelson delivered to this Committee in 1998. Facing threats and harassment herself, she urged this body to press the U.K. government for an independent inquiry into the murder of human rights lawyer Patrick Finucane. Seven years ago today, Rosemary Nelson was killed when a bomb set by the LVF exploded under her car. No one has yet been charged in her murder. I would like to take the opportunity presented by today's hearing to provide this Committee with an update on the establishment of a public inquiry into her murder, as well as that of Patrick Finucane, Robert Hamill and Billy Wright, all cases in which there are serious allegations of collusion by British agents.

The record of progress here is mixed. There has been some progress, albeit slow, in the Nelson and Hamill cases. In the case of Billy Wright, the British government has switched course in a way that is likely to undermine the investigation. After the establishment of the Wright inquiry under the Prison Act, the British government decided that the 2005 Inquiries Act, should govern the inquiry instead, a move that threatens to undermine public faith in its conclusions. And there is still no inquiry at all into the murder of Patrick Finucane. The U.K. government has proposed that an inquiry in the Finucane case be held under the new Inquiries Act. As we have outlined in testimony before the Congress before, Human Rights First believes that an inquiry into Finucane's death under the Inquiries Act would lack the transparency needed to assure confidence in its result.

The importance of exposing the truth about what happened in these cases cannot be overstated. Each of these cases is emblematic of much broader problems involving institutionalized sectarianism and lack of faith of all communities in the criminal justice system. While some progress has been made in addressing these problems in Northern Ireland, a great deal of work remains to be done. A just and credible resolution to each of the four cases is essential to building a foundation of respect for human rights and the rule of law on which the future of Northern Ireland depends.

#### BACKGROUND ON THE CORY INQUIRIES

In 2001, the British and Irish governments agreed at Weston Park that preliminary investigations should take place into the killings of eight individuals where official collusion had been alleged. In four of these cases—the murders of Patrick Finucane, Robert Hamill, Billy Wright and Rosemary Nelson—there was evidence of collusion by British state agents in the killings. In the other two cases—the murders of Lord Justice and Lady Gibson, and of police officers Harry Breen and Bob Buchanan—collusion by the Irish police was alleged. The British and Irish Governments agreed that, “[i]n the event that a Public Inquiry is recommended in any case, the relevant Government will implement that recommendation.” The commitment made by the governments in the Weston Park Agreement could not have been clearer.

Judge Peter Cory, appointed to conduct preliminary investigations, recommended in October 2003 that public inquiries be conducted into five of the six cases (not the Gibson case). The Irish government commenced its inquiry promptly. Unfortunately, the British government took a different approach, and only in November 2004 announced the terms of reference for the Public Inquiries in the Hamill, Wright and Nelson cases, along with the names of the panel members who would hold the hearings. At the time, the British government claimed that no inquiry into Finucane's death could be announced until the outcome of pending prosecutions in the case.

#### THE INQUIRIES ACT 2005

As the opening hearings were being held in the Hamill, Wright, and Nelson inquiries in April and May 2005, the Inquiries Act 2005 was passed. Despite widespread objection by many advocates—and by Members of this Committee—the new law came into force on June 7, 2005.

The Inquiries Act brings about a fundamental shift in the manner in which the actions of government and public bodies can be subjected to scrutiny in the United Kingdom. The powers of independent chairs to control inquiries has been usurped and those powers have been placed in the hands of government ministers. Under the Act, the minister: decides whether there should be an inquiry; sets its terms of reference; can amend its terms of reference; appoints its members; can restrict public access to hearings; can prevent the publication of evidence placed before an inquiry; can prevent the publication of the inquiry's report; can suspend or terminate an inquiry; and can withhold the costs of any part of an inquiry which strays beyond the terms of reference set by the minister.

Compared to inquiries established under the 1921 Act, Parliament's role in overseeing public inquiries is now dramatically reduced. Under the new law, not only is there no guarantee that inquiries will be public, but because of the near complete control of inquiries by government ministers, it is hard to see how such inquiries can be viewed in any way as "independent." This is particularly troubling where the actions of a government minister or those of his or her department, or those of the government, are in question. In effect, this creates a situation in which the state will be investigating itself.

Simply put, an inquiry held under the Inquiries Act will not meet the standard set for independent public inquiries by Judge Cory in October 2003. Inquiries held under this law will therefore not satisfy the Weston Park Agreement between the British and Irish governments in 2001.

#### PATRICK FINUCANE

Just before the Inquiries Act came into force, the UK government made it clear that any inquiry into the 1989 murder of Belfast solicitor Patrick Finucane, who was shot to death in his home, would not be public. In an October 2004 letter to Human Rights First, the British Consulate-General in New York asserted that national security interests effectively preclude the possibility of a public inquiry, as operational techniques that will be discussed during the inquiry are currently being used in counterterrorism operations.

In February of this year, Secretary of State for Northern Ireland Peter Hain reiterated to Geraldine Finucane that the government's prime concern in any inquiry into her husband's death is preservation of "national security." It would appear that the government is placing a higher value on protecting the interests of the security and intelligence services—the very agents who stand accused of collusion in Finucane's murder—over and above the interests of the family, the public, and the provision of justice. A follow up letter from Hain's office to Ms. Finucane confirmed the same.

Ms. Finucane has written personally to every senior judge in England, Wales and Scotland urging them to decline participation in any inquiry into her husband's death held under the Inquiries Act. To date, the UK government has not been able to identify any judge willing to take on the inquiry under the flawed terms of the Inquiries Act.

The Finucane family likewise has made clear that it will not participate in any inquiry held under the Inquiries Act. There is now some doubt whether the government will invest the time and money to hold an Inquiries Act inquiry without the participation of the family.

Just a few weeks ago, on February 22, Judge Cory delivered the McDermott Lecture at Queen's University in Belfast. In a spirited defense of public inquiries based on Canadian experience, the judge said it was better never to hold an inquiry than to leave the public believing there had been a whitewash. Although he did not refer specifically to any of the inquiries he recommended as a result of the Weston Park Agreements, Judge Cory later stated that the government had "moved the goalposts" in the Finucane case.

Furthermore, during parliamentary debates on March 8, the Dail Eireann adopted a resolution calling for the British government to "reconsider its position" and establish a "full, independent, public judicial inquiry into the murder of Pat Finucane, as recommended by Judge Cory, which would enjoy the full cooperation of the family and the wider community throughout Ireland and abroad." The response from the Northern Ireland Office of the United Kingdom, issued the same day, called the debates "flawed and misleading," and contended that an inquiry under the Inquiries Act would be sufficiently public and independent to satisfy the recommendations of Judge Cory.

The UK government has fought for 17 years to escape accountability and keep the truth about its role in Finucane's murder from his family and from the public. Worse than inaction, the UK government is poised to foreclose the possibility of a

credible inquiry in this case altogether. This would be devastating, not only for the Finucane family, but for the cause of peace and reconciliation in Northern Ireland for years to come.

BILLY WRIGHT

I regret to report disappointing developments regarding the inquiry into the 1997 murder in the Maze prison of dissident loyalist leader Billy Wright. Judge Cory found a great deal of evidence to suggest that Wright's murder could have been prevented, which points to many acts of potential collusion before his death, as well as evidence to suggest an attempted cover-up after the murder.

In response to Judge Cory's recommendation, the UK government announced on November 16, 2004 that it would hold a Public Inquiry into Wright's murder. Lord MacLean, a recently retired senior Scottish judge, was appointed as chair.

The inquiry was established under section 7 of the Prison Act (Northern Ireland) 1953, a provision that was repealed by the Inquiries Act when it passed. Despite this, the inquiry could have gone ahead under section 7 of the Prison Act because it was formed under that provision. At the opening preliminary hearing of the inquiry, on June 22, 2005, Lord MacLean announced that he was seeking conversion of the inquiry from the Prison Act to the Inquiries Act 2005. The reason provided for the request was to increase the reach of the inquiry panel to government bodies not involved with prisons and therefore not covered under the Prison Act. David Wright, Billy Wright's father, and a number of NGOs argued against this move, which would seriously jeopardize the independence of the inquiry, as the Secretary of State for Northern Ireland's office was an interested party. Over these objections, Secretary of State Peter Hain granted the Lord MacLean's request on November 23, 2005.

David Wright is seeking judicial review of this decision and a declaration that the Inquiries Act is incompatible with the European Convention on Human Rights (specifically, Article 2, which protects the right to life and includes by implication the right to an effective investigation into deaths). In response, on February 17, Lord MacLean issued an affidavit to the court providing alternate reasons for his request to convert the inquiry than those he gave originally. This dispute is likely to proceed to the House of Lords and will considerably delay the opening of the inquiry, which is scheduled to begin in September 2006.

ROBERT HAMILL

The inquiry into the murder of Robert Hamill is scheduled to commence in September 2006. Hamill was a young Catholic man who was kicked to death by a loyalist mob in 1987 in the center of Portadown, despite the presence of armed police officers in a police Land Rover nearby. Only one of Hamill's assailants was ever convicted, and of only a minor offense in relation to the murder. The Hamill family was represented by Rosemary Nelson until her death.

On November 16th, 2004, the Secretary of State for Northern Ireland announced the establishment of a Public Inquiry into this murder under section 44 of the Police (Northern Ireland) Act 1998. We believed that the Police Act would remain the basis for the Hamill inquiry regardless, as it was begun before the passage of the Inquiries Act. But the chair of the inquiry—Sir Edwin Jowitt—has requested a conversion to the Inquiries Act. The stated reason for his request is that under the Inquiries Act suspects or eyewitnesses who refuse to come forward can be jailed until they comply with the requests of the inquiry panel, whereas under the Prison Act, only a fine or short prison sentence can be issued as punishment for acting in contempt. Although the decision is pending, there is little doubt that Sir Jowitt's request will be granted.

In addition, there remain some concerns about the terms of reference for the inquiry and the lack of consultation with the Hamill family prior to the finalization of those terms of reference. At a meeting in July 2004, senior Northern Ireland Office officials assured the Hamill family that they would have the opportunity to meet the chair of the inquiry and discuss the terms of reference before they were finalized. This meeting never took place.

Despite the fact that the inquiry is a direct result of Judge Cory's Collusion Investigation, the terms of reference make no explicit mention of collusion. While the same is true for the terms of reference in the Wright case, in Hamill's case, Judge Cory explicitly found such evidence of collusion. It is therefore crucial that the public inquiry is tasked with investigating the question of collusion. The broad terms of reference should be construed to encompass collusion, which is, after all, at the heart of the inquiry.

## ROSEMARY NELSON

Progress has been exceedingly slow, but there is finally some movement in the inquiry into the murder of Rosemary Nelson. The terms of reference of the inquiry were announced on November 16, 2004, and Sir Michael Morland, a retired member of the High Court of England and Wales, was appointed Chair. The Nelson inquiry is established under section 44 of the Police (Northern Ireland) Act 1998, and no conversion to the Inquiries Act has been made.

The inquiry held its opening hearing on April 19, 2005, at which the chair introduced the panel and set out details about how he intends to conduct the inquiry. Following the opening hearing, the inquiry began gathering evidence for the full, public hearings, which are expected to commence on January 16, 2007, in Belfast. Should the inquiry consider it necessary to hold some sessions in private or to protect the identities of some witnesses, the panel has indicated that it will disclose its reasons for such decisions.

The inquiry will accord the status of "full participant" to a small group of individuals and organizations, including Rosemary Nelson's husband, her mother, the Police Service of Northern Ireland and the Northern Ireland office. These individuals and groups will be entitled to legal representation throughout the course of the inquiry, and their legal costs may be met from public funds. They will also be granted access to written copies of all witness statements given to the inquiry.

After many years of delay, progress in the inquiry into this terrible crime is welcome.

## CONCLUSION

Human Rights First, British Irish Rights Watch, CAJ and other NGOs will continue to monitor the development of these investigations closely. We encourage members of Congress to scrutinize these inquiries as they progress and to raise concerns about their fairness, effectiveness, and terms of reference with the British government. Your oversight is critical: last year at this time we were assured by the British government that none of these inquiries would be in any way governed by the new Inquiries Act. Those assurances were false. Given the significant deficiencies in the Inquiries Act, there is reason for grave concern that the United Kingdom will never live up to its commitments under the Weston Park Agreement, and public confidence in the results of the inquiries will be compromised.

As so many societies transitioning from conflict to peace have learned, building a culture of human rights and accountability depends on having a credible process for addressing past violations. Judge Cory stated in Belfast on February 22, public inquiries can meet the continuing need for accountability in post-conflict situations if they meet four criteria. First, they must be held openly so that the public can see the evidence, hear the witnesses, and be satisfied that the truth had been established. Second, they must be timely, so that matters do not fester. Third, any recommendations made by them must be acted on by the government. And fourth, the public must be able to trust and rely on the tribunal to act fairly and to get at the truth. Inquiries held under the new law will meet none of these criteria.

Public inquiries into government collusion in the four emblematic cases I discussed today are quite simply a pre-requisite to breaking the cycle of impunity that persists in Northern Ireland. Until the UK government demonstrates a commitment to uncovering and acknowledging the wrongs done in these cases, there will be a fundamental withholding of faith on the part of many in Northern Ireland that no amount of policing or criminal justice reforms will remedy.

*The most urgent request we have is that you do everything you can to persuade the British government to initiate an independent and public inquiry—one that complies with the recommendations made by Judge Cory—into government collusion in the murder of Patrick Finucane.*

We thank you, Chairman Smith, Chairman Gallegly, and your colleagues in the House for your efforts to convey our concerns to Prime Minister Blair. We urge you to do all you can to ensure that President Bush sends the same message.

Thank you for the opportunity to share our views with you.

Mr. SMITH OF NEW JERSEY. Ms. Pyati, thank you so very much for your testimony and leadership.

Ms. Beirne.

**STATEMENT OF MS. MAGGIE BEIRNE, DIRECTOR, COMMITTEE  
FOR THE ADMINISTRATION OF JUSTICE**

Ms. BEIRNE. Thank you, Mr. Chair, and thank you again for the invitation to testify before you today.

As you have already recorded, today is the seventh anniversary of Rosemary Nelson's murder. She was a member of our Executive Committee, and we were very proud of that fact. We thank you again for your continuing concern in pursuing the truth about her murder, and many of the other instances in Northern Ireland. This is an occasion to thank you and Congress generally for its continuing interest in developments in Northern Ireland. We feel that this interest has been enormously powerful in moving the debate forward, and in protecting human rights in Northern Ireland.

If I might digress before I start my remarks on policing, because you were good enough in your opening remarks to refer to the interrelationship between peace, justice, and prosperity? CAJ has produced some material about religious and political differentials in employment, housing, and education, and concerns about how investment can be ensured over the next while to actually challenge some of those inequalities. Maybe I could put that forward to the record, even though it is not the direct topic of this hearing?

Mr. SMITH OF NEW JERSEY. We will welcome that. So without objection, your submission will be made a part of the record.

Ms. BEIRNE. Thank you very much, Congressman. And now to return. And I am really going to complement the remarks and submissions made by my two colleagues, and I endorse entirely the submissions they have already made. And really to place those comments in a somewhat broader perspective, I just wanted to comment on four things.

First of all, the past allegations of police collusion. Second, measures to address allegations of that collusion. Third, the relevance of issues around police collusion for the current debate that is happening around devolution of criminal justice and policing. And finally, additional human rights safeguards that we need to ensure and underpin that move toward greater human rights protection in Northern Ireland.

So firstly on the past allegations of police collusion. In my follow-up submission, if I may leave that for the record, I have actually quoted extensively from previous reports made by both the Stevens inquiry, which you would be well aware of, and indeed reports by international NGOs like Amnesty International and Human Rights Watch.

And I really can add nothing further to the remarks that were made very forcefully by the Vice Chair of the Policing Board earlier on, though I would disagree with some of his other comments. I felt that the remarks made concerning collusion were very strongly made, the fact that there is a broad sense and an awareness of serious allegations and reality of collusion in policing is really the challenge that is facing us.

The challenge is to recognize that these concerns aren't purely historic issues. And I suppose that is why there is such a continued focus, and Archana Pyati was referring to that in particular in the four cases that Judge Cory investigated.

Let me just pick up on a couple of the remarks that the judge made, and remember three of those four deaths were in the 1998/1999 period; so we are not talking about historic instances at all.

In the Robert Hamill case, the judge expressed concerns saying that if they were confirmed, certain actions could be found to be carefully planned and premeditated actions taken to frustrate a murder investigation, to protect or exonerate an individual who might have been guilty of murder, and certain basic investigative tasks were not undertaken—and this might indicate a bias in the police force that could amount to institutional collusion.

In the case of Rosemary Nelson, Judge Cory concluded that there was evidence of collusion by governmental agencies in the murder of Rosemary Nelson that warranted the holding of a public inquiry.

And then in the Billy Wright case, Judge Cory again concluded there was sufficient evidence of acts or omissions that could result in the finding that there had been acts of collusion by the Prison Service, the directors, officers, or employees. Those are all relatively recent cases.

But I want to particularly emphasize the relationship to the Patrick Finucane case that has been explored earlier on in the course of the submissions. This case is emblematic of the difficulty of treating allegations of collusion as purely something from the past.

In recent correspondence that has already been entered for the record, the Secretary of State for Northern Ireland wrote to the family saying that the Finucane inquiry would hear evidence that goes to the heart of national security in Northern Ireland. There will be some evidence which cannot be made public because it could cause real damage to national security, or put lives in danger.

But that begs so many questions. Pat Finucane was a defense attorney. He was killed by a Loyalist paramilitary group. What about his murder could be of such a sensitive nature, and be so intimately tied into concerns of national security, that government is unwilling to respond 17 years after his death to the family's request for an open and transparent investigation? How can the public conclude anything other than the state itself bears direct responsibility for these events? Surely the state has no national security interests in protecting Loyalist paramilitaries.

Its concern to protect national security can only be understood if the state itself acted, by commission or omission, in concert with Loyalist paramilitaries in the case.

But let us move on to measures to address those allegations of police collusion. There are, of course, a number of changes already underway in terms of policing. Those changes are being bedded down. Progress is measurable. Patten proposed and endorsed a series of major reforms that are steadily being put in place: The creation of a more effective oversight mechanism in the form of a Policing Board, the creation of an independent police complaints system, the drawing up of the Code of Ethics, as the Chair of the Policing Board referred to earlier and placed on record, the establishment of structures, training principles, legal frameworks to emphasize human rights, and a series of recruitment and personnel initiatives aimed at diversifying the police.

At the same time, requests to Patten to recommend the disbandment of the old RUC, or much less radically to at least vet all those

who wanted to remain or become members of the new policing arrangements were rejected. Patten set these proposals aside. He did say that action had to be taken against bad apples. And he proposed, as a minimum, in future all new and serving officers should take an oath to uphold human rights.

Yet even this measure, intended to avoid the retention or recruitment of human rights abusers, was rejected by government. Government rejected any inference that the police might previously have been involved in human rights abuses, and this denial plagues continuing debates around policing.

Victims of past collusion believe that those responsible are still possibly in positions of power in the police. For example, many complaints have been made of the actions of the Special Branch. And Patten himself reported that it was seen as a force within a force. And again, reference has been made to the changes that have taken place. He recommended a decrease in Special officers, merging of the unit with the Crime Branch, improved information flow between the regular police and Special Branch. And some of those changes are underway.

But we do have concerns. And most particularly, the most recent concerns relate to the government announcement last year to the effect that, "The Security Service will assume for Northern Ireland the lead responsibility for national security intelligence work." This means, as you have already alluded to, Mr. Chair, that MI-5 will take on work previously undertaken by Special Branch, presumably just as the final changes in policing accountability come to fruition.

The Secretary of State went on to say, in the same statement, that such a change will in no way diminish the role of PSNI in intelligence-gathering in areas other than national security. But clearly the exact division of work between the police and MI-5 is still being negotiated, since very recently, the Chief Constable is reported as announcing that in future, the police would deal with Loyalist paramilitaries, and MI-5 would deal with Republican paramilitaries.

Human rights organizations would have serious concerns with a number of these developments. Firstly, in Northern Ireland there is often an extensive overlap between issues of national security and issues of ordinary crime. The Police Ombudsman is currently investigating allegations that a Loyalist, convicted of 12 sectarian murders in 1993, continued to be paid regular large sums of money by Special Branch even after his release from prison.

Again, I think the Vice Chair made allusion to that, and seemed to imply that when information comes into the public domain we will have less to worry about. But the information that we have received so far through the media is certainly very, very worrying. We look forward to the Police Ombudsman investigation into those claims.

Another instance only a few months ago, at a meeting of a local district Policing Partnership, women from a number of Loyalist working class estates expressed grave concern that local drug dealers were being allowed by the police to operate with impunity, because they were also police informers. And again, here I must allude to comments made by Ambassador Mitchell Reiss. He said—

I think you had asked him about informers, and he had said, well, it is somewhat different from the bigger peace process.

I would argue that the handling of informers goes very much to the heart of the peace process, and these concerns are very inter-related. If people don't have confidence in the rule of law and upholding the rule of law, then there is going to be very little commitment to the peace process.

The second big issue is who decides what constitutes national security. An interesting distinction now seems to be being drawn between Republican violence and Loyalist violence, so that the former is considered as a threat to the state, but the latter is seen as more criminal in nature. If this differentiation is accepted, it suggests the state is only under threat from people directly seeking to overthrow it. And it implies that the state is much less exercised by the damage created to society by the persistent and deliberate use of violence aimed at the Catholic civilians. That is a very worrying assertion and trend.

CAJ believes that great efforts have been made, thanks to Patten, to ensure that policing in Northern Ireland will be held effectively to account in future, and any risk of collusion shall be dramatically diminished. But to suggest that the most sensitive element of policing, the policing of Loyalist or Republican violence or both, should be removed from the primacy of policing, and given over to a much less legally- and democratically-accountable body, MI-5, is to seriously risk undermining the many advances currently underway.

The third area I wanted to comment on was the relevance of all of this to the devolution of criminal justice and policing powers.

We believe that the move to remove certain key functions from the police, and to hand them over to other branches of security forces, has a great potential for impacting on public confidence and the rule of law.

The Secretary of State himself, in making this announcement about the transfer said that such a change will precipitate the devolution of justice and policing when a robust and workable basis for that is agreed. But the implication appears to be that criminal justice and policing powers can be devolved to local authority and control only once the more contentious element—national security intelligence work—is removed from the equation.

The Committee may be aware that a public debate on the when and how of devolving authority for criminal justice and policing to locally-elected and locally-accountable Northern Ireland ministers has recently been launched. And you will certainly know that authority for policing and criminal justice has been exercised by direct-rule ministers since 1972. So even when the Assembly and Executive were in operation, local ministers had no responsibility for criminal justice and policing.

And certainly no one underestimates the difficulty in securing agreement across the community as to the most appropriate local political structures. Do we create one ministry responsible for criminal justice and policing? And if so, how do we ensure that the minister will not operate it for his or her own partisan political ends? When policing is as politically contentious as it is in Northern Ireland, it is crucially important that the ministry and overall

charge of criminal justice and policing will be seen as acting fairly and in a non-partisan way.

If they create two ministries, each one allocated to each of the major political traditions, that could be just as or more problematic.

People need to feel confident that policing and the rule of law is operating under proper legal and democratic control, and is immune from political partisanship.

At the same time, whatever structures are produced—one, two ministries, whatever—no local minister or ministers will command the necessary public confidence if they can't answer for the actions or inactions of the services overseen: The police use of force, and the reliance on plastic bullets which are not used in Britain in public order situations is just one example. The policing of public order situations has often been highly contentious in Northern Ireland. What role does a future minister for policing play? How can he hold the Chief Constable to account in those issues?

Devolution will undermine, rather than increase, public confidence in the system and the rule of law, if the minister's powers and authority are not clear.

Finally, just to comment on some additional human rights safeguards. From a human rights perspective, the key issue is how to ensure that the minister of whatever party, whether devolved or direct, exercises his or her power impartially and for the good of all. Collusion and other human rights violations need to become and remain a thing of the past.

We have recently completed the major piece of the comparative international research into the possible models. And with your permission, Mr. Chairman, I might read just an executive summary of that into the record.

One of the major findings of that research, and this is, as I said, a piece of international comparative research, was that while the institutional model is obviously important, there are other safeguards required if we are to ensure the rule of law and democratic oversight and the protection of human rights for all.

And in the forthcoming debate, CAJ will be arguing, for example, that we need constitutional safeguards, and most particularly a bill of rights which will ensure written guarantees of fairness for all. We need parliamentary safeguards to ensure cross-party oversight of ministerial policing and criminal justice powers. We need oversight and inspectorate mechanisms of a short- and long-term nature. We need effective criminal justice complaint systems, to mirror the important function of being performed by the Police Ombudsman. And obviously, we need a highly professional, effective, impartial and independent judiciary.

The experience from elsewhere suggests that the most important safeguard of all is engendering a culture of human rights in policing and criminal justice institutions. Principles of accountability, transparency, and diversity must infuse whatever institutional arrangements are eventually negotiated. Only then can Northern Ireland hope to overcome the terrible legacy of its past, and ensure a society of justice and fairness for all.

May I conclude with thanking you once again, Chairman Smith, on behalf of all three groups represented on the panel, for this

Committee's continuing interest in policing change in Northern Ireland, and developments since the agreement.

All three of us have talked about the past, but with a view to ensuring a better future. We believe that Northern Ireland is yet again at a crucial moment in its transition from conflict to peace. Your continuing vigilance and support will hopefully help us move toward greater local accountability, and more human rights compliant policing and criminal justice.

Thank you.

[The prepared statement of Ms. Beirne follows:]

PREPARED STATEMENT OF MS. MAGGIE BEIRNE, DIRECTOR, COMMITTEE FOR THE ADMINISTRATION OF JUSTICE

Thank you for the invitation to testify. Today, as you know, is the seventh anniversary of the murder of Rosemary Nelson who testified previously before Congress on the same topic of policing in Northern Ireland. The Committee on the Administration of Justice (CAJ) was proud to have Rosemary serve on its executive, and is delighted to record the continuing interest and commitment of this Committee in policing reform.

CAJ, as you know from previous submissions, is an independent human rights organisation that works in Northern Ireland on behalf of people from all sections of the community and was awarded the Council of Europe Human Rights Prize by the then 39 member states in recognition of the organisation's efforts to place human rights at the heart of the peace process.

One of the reasons for the success of our work to date has been the continued involvement and interest of the United States. In this context we would particularly like to thank the honourable members of this Sub-Committee for their continued interest in human rights developments in Northern Ireland, and in particular, the untiring efforts of its chair, Chris Smith.

My NGO colleagues have spoken of a range of issues of relevance to the topic of the *Peace Process and Police Reform in Northern Ireland*, and I will seek not to duplicate their submissions, which CAJ would wholeheartedly endorse. Instead, we thought that it might be helpful for the Committee if we sought to put the debate about "dealing with the past"—both by way of the Historical Enquiries Team and individual "Cory inquiries"—into a somewhat broader policing and criminal justice context.

This submission will therefore address in turn the following issues:

- a. past allegations of police collusion;
- b. measures to address allegations of police collusion;
- c. the relevance of these concerns to the current debate about the devolution of criminal justice and policing powers;
- d. additional human rights safeguards.

*a) past allegations of police collusion*

In CAJ's submission to the Independent Commission into Policing for Northern Ireland (the Patten Commission), in 1998, we cited a series of reports into collusion which were prepared over the years.

Some of these reports were prepared by senior British police officers. The Stevens report in 1990 for example, reported "*it is clear that official information, originally produced by the Royal Ulster Constabulary, the army and the Prison Service, has passed, illicitly, into the hands of loyalist paramilitary groups. Documents, and information from documents, have been traced to the possession of these paramilitaries. They have been used by them to enhance their own intelligence systems and as an aide to the targeting of persons suspected of being republican terrorists*" (page 12—"Summary of the Report of the Deputy Chief Constable of Cambridgeshire John Stevens, into allegations of collusion between members of the Security Forces and Loyalist Paramilitaries").

Other reports were prepared by well respected international human rights organisations. The Committee has frequently heard from Human Rights First directly on such matters, but Amnesty International in a report in 1994 entitled "Political Killings in Northern Ireland" reported that the organisation "*has not been convinced that the government has taken adequate steps to halt collusion, to investigate thoroughly and make known the full truth about political killings of suspected government opponents, to bring to justice the perpetrators and dismantle 'pro-state'*

*organisations dedicated to political violence, or otherwise deter such killings”* (pages 29–30).

Human Rights Watch in its 1997 report entitled “To Serve without Favor: Policing, Human Rights and Accountability in Northern Ireland”, noted that “RUC management told Human Rights Watch that there have been ‘remarkably few’ cases of police officers passing information on to loyalist paramilitaries, but in those cases which have been spotted over the last 25 years, those individuals have been ‘dealt with’. In fact, there has never been a criminal or disciplinary charge levelled against an RUC officer for acknowledged collusion; thus it remains unclear when, how, and under what circumstances officers involved in collusion have been ‘dealt with’” (p. 141).

Despite receiving testimony to this effect, the Patten Commission nevertheless determined that its task was not to “make judgements about the extent to which the RUC may or may not have been culpable in the past of inattention to human rights or abuse of human rights . . . our approach is restorative rather than retributive” (pages 18–19). It also however concluded that “we are in no doubt that the RUC has had several officers within its ranks over the years who have abused their position. Many supporters of the RUC, and both serving and retired officers, have spoken to us about “bad apples”. It is not satisfactory to suggest, as some people have, that one should somehow accept that every organisation has such “bad apples”. They should be dealt with” (page 26).

Patten also recognised that a number of specific allegations of past police misconduct were the focus of investigation in other fora. Subsequently, several of the cases that Patten alluded to were subjected to the forensic study of Judge Peter Cory and he reported to government in October 2003.

In the Robert Hamill case, the judge expressed concern about certain actions which, if confirmed, “could be found to be carefully planned and premeditated actions taken to frustrate a murder investigation and to protect or to exonerate an individual who might have been guilty of murder” and the failure to undertake certain basic investigative tasks “may indicate a bias in the police force that could amount to institutional collusion”.

In the case of Rosemary Nelson (whose anniversary, as I mentioned, we commemorate today), Judge Cory concluded “I am satisfied that there is evidence of collusion by governmental agencies in the murder of Rosemary Nelson that warrants the holding of a public inquiry” (page 71). In the Billy Wright case, the allegations of collusion related to the Prison Service, rather than to the police, but Judge Cory again concluded that there was “sufficient evidence of acts or omissions that could . . . result in a finding that there had been acts of collusion by the Prison Service, their directors, officers or employees” (page 89).

Of the four cases from Northern Ireland examined by Judge Cory, it is the Pat Finucane case that offers the most worrying insights into the possibility of collusive behaviour on the part of the security services. The case is also emblematic of the difficulty of treating allegations of collusion as something that is a matter of the past, with little or no current relevance.

In recent correspondence from the Northern Ireland Office to the family (20 February 2006) (already entered into the record formally) the Secretary of State for Northern Ireland, Peter Hain, states “the inquiry will hear evidence that goes to the heart of national security in Northern Ireland. There will be some evidence which cannot be made public, because it could cause real damage to national security or put lives in danger” (p. 2). Later in the same letter reference is made to the great “volume of sensitive material”, and the fact that the Bloody Sunday Inquiry involved a lot less sensitive evidence than an inquiry into the murder of Pat Finucane.

Pat Finucane was a defence attorney. He was killed by loyalist paramilitaries. What about his murder could be of such a sensitive nature, and be so intimately tied into concerns of national security, that government is unwilling to respond—17 years after his death—to the family’s request for an open and transparent investigation? How can the public conclude anything other than that the state itself bears some direct responsibility for this murder? Surely the state has no national security interest in protecting loyalist paramilitaries? Its concern to protect national security can only be understood if the state itself acted—by commission or omission—in concert with loyalist paramilitaries.

#### *b) measures to address allegations of police collusion*

A number of crucial steps have been taken to address past—and potentially future—allegations of collusion. While many changes are still underway, and being bedded down, progress is still measurable.

Patten proposed/endorsed a series of major reforms that are steadily being put in place:

- the creation of a more effective oversight mechanism in the form of a Policing Board;
- the creation of an independent police complaints system (the Police Ombudsman);
- the drawing up of a Code of Ethics which is tied directly into disciplinary rules and regulations;
- the establishment of structures, training principles, legal frameworks that emphasise human rights, equality, and community outreach; and
- a series of recruitment and personnel initiatives aimed at diversifying the composition of policing.

At the same time, requests to Patten to recommend the disbandment of the old RUC or, much less radically, to vet all those who wanted to remain or become members of the new policing arrangements, were rejected.

But Patten had asked for action to be taken against 'bad apples' and had proposed that, as a minimum, in future all new and serving officers should take an oath to uphold human rights. Yet even this measure—intended to avoid the retention or recruitment of human rights abusers—was rejected by government. Government rejected any inference that the police might previously have been involved in human rights abuses, and this denial plagues continuing debates around policing. Victims of past collusion believe that those responsible are still possibly in positions of power in the police.

For example, many complaints had been made of the actions of the Special Branch and Patten reported that it was seen as a "force within a force", and recommended a decrease in specialist officers, the merging of the unit in the wider Crime Branch under the command of a single Assistant Chief Constable, improved information flow to regular police commanders about security policing in their districts, and the routine rotation of officers.

Important changes are clearly underway, but concerns have been expressed at different times about the speed of change (or lack thereof), and these concerns have been exacerbated by major new developments.

In February 2005, the government announced that from 2007 "*the Security Service will assume for Northern Ireland the lead responsibility for national security intelligence work*". This means that MI5 will take on work previously undertaken by Special Branch—presumably just as the final changes proposed by Patten come to fruition. The Secretary of State did go onto say in the statement that "*such change will in no way diminish the role of the PSNI in intelligence gathering in areas other than national security*". But, clearly, the exact division of work between the police and the national security agency is still being negotiated, since more recently the Chief Constable is reported as announcing that in future the police would deal with loyalist paramilitarism, and MI5 would deal with republican paramilitarism.

Human rights organisations have serious concerns about all of these developments.

Firstly, in Northern Ireland there is often an extensive overlap between issues of "national security" and issues of "ordinary" crime. The Police Ombudsman is, for example, currently investigating allegations that a loyalist, convicted of twelve sectarian murders in 1993, continued to be paid regular large sums of money (£50,000 or \$80,000 a year) by Special Branch, even after his release from prison. One of the issues the Ombudsman will be exploring is the truth or otherwise of claims that Special Branch agents even moved two high powered rifles after local people notified the police of their existence. It is claimed that these were the very rifles later used in the infamous Greysteel massacre where to cries of "trick or treat" some 19 people were injured and 8 were killed as a public bar was sprayed with gunfire on Halloween night.

In another instance, only a very few months ago, at a meeting of a local District Policing Partnership, women from a number of loyalist working class estates expressed grave concern that local drug dealers were being allowed by the police to operate with impunity because they were also police informers.

Secondly, who decides what constitutes "national security"? An interesting distinction now seems to be being drawn between republican violence and loyalist violence—the former being considered as a threat to the state where the latter is more criminal in nature. If this argumentation is accepted, it suggests that the state is only under threat from people directly seeking to overthrow it. But this implies that the state is much less exercised about the damage created to the fabric of society by the persistent and deliberate use of violence aimed at Catholic civilians?

CAJ believes that great efforts have been made—thanks to Patten—to ensure that policing in Northern Ireland will be held effectively to account in future and that

any risk of collusion should be dramatically minimised. Legal, democratic, procedural, personnel, institutional and cultural changes should all combine together to render collusion truly a thing of the past. To suggest now that the most sensitive element of policing—the policing of loyalist and/or republican violence, or both—should be removed from the primacy of policing and delivered to a much less legally and democratically accountable body—MI5—is to risk seriously undermining the many advances currently underway.

*c. the relevance of these concerns to the current debate about the devolution of criminal justice and policing powers*

CAJ believes that this move to remove certain key functions from the police to hand them over to other branches of the security services has a great potential for impacting on public confidence in the rule of law, and indeed on the democratic system more generally. The Secretary of State in announcing the transfer of security intelligence work from the police to MI5 said that “such a change will facilitate the devolution of justice and policing when a robust and workable basis for that is agreed”. The implication appears to be that criminal justice and policing powers can be devolved to local authority and control only once the more contentious elements—national security intelligence work—is removed from the equation.

This Committee may be aware that a public debate on the “when” and “how” of devolving authority for criminal justice and policing to locally elected and locally accountable Northern Ireland ministers has recently been launched. You will certainly know that authority for policing and criminal justice has been exercised by Direct Rule ministers since 1972. Even when the Northern Ireland Executive & Assembly, created by the Agreement, were in operation, local ministers had no responsibility for criminal justice and policing.

Certainly no one under-estimates the difficulty in securing agreement across the community as to the most appropriate local political structures. Does Northern Ireland create one ministry responsible for criminal justice and policing and, if so, how do we ensure that the minister will not operate this very powerful ministry for his/her own partisan political ends? When policing is as politically contentious as in Northern Ireland, the party political sympathies of the minister in overall charge of criminal justice and policing will be seen as indicative of governmental policy in this domain. However, creating two ministries, each allocated to one of the two major political traditions, could be just as, or perhaps more, problematic.

People need to feel confidence that policing and the rule of law is operating under proper legal and democratic control, but is immune from the kind of political partisanship which would see people arrested, questioned, or charged because of their political or other beliefs/affiliations.

At the same time, regardless of the structures introduced, it is vital that the powers of the local minister are transparent and unambiguous. No local minister will command the necessary public confidence if he/she cannot answer for the actions and inactions of the services overseen. The police use of force, their reliance on plastic bullets (not used in Britain), and the policing of public disorder have all been highly contentious in Northern Ireland—what role would a future Minister for Policing play in relation to the Chief Constable in such matters? When republicans and loyalists are arrested and are made amenable to the criminal justice agencies in future—what authority will be vested in a Minister of Justice to inquire into the legal basis for such arrests, or the laying of charges? Devolution will undermine rather than increase public confidence in the system in the rule of law if the minister’s powers and authority are not clear.

*d. additional human rights safeguards*

From a human rights perspective, however, the key issue is how to ensure that the minister (of whatever party, whether devolved or Direct Rule) exercises his/her power impartially and for the good of all. Collusion and other human rights violations need to become and remain a thing of the past.

CAJ has recently completed a major piece of comparative international research into the possible models for devolving criminal justice and policing. (With your permission, Mr Chair, could we ask for an executive summary of the report to be read into the record?) One of the major findings of the research was that the institutional model is important, but that there are many other safeguards required if Northern Ireland is to ensure the rule of law, democratic oversight, and the protection of the human rights of all.

In the forthcoming debates, we will for example be arguing that Northern Ireland needs a series of human rights safeguards. We need—

- constitutional safeguards, and most particularly a Bill of Rights which would ensure written guarantees of fairness for all;

- parliamentary safeguards to ensure cross-party oversight of ministerial policing and criminal justice powers;
- oversight & inspectorate mechanisms of a short and long term nature;
- effective criminal justice complaints systems to complement the important function performed for policing by the Police Ombudsman;
- and, obviously, a highly professional, effective, impartial and independent judiciary.

The experience from elsewhere suggests that the most important safeguard of all is engendering a culture of human rights in policing and criminal justice institutions. Principles of accountability, transparency, and diversity must infuse whatever institutional arrangements are eventually negotiated. Only then, can Northern Ireland hope to overcome the terrible legacy of its past, and ensure a society of justice and fairness for all.

May I conclude with thanking you once again, Chairman Smith, on behalf of all three groups represented on this panel, for this Committee's continuing interest in policing change in Northern Ireland.

All three of us have talked about the past but with a view to ensuring a better future. We believe that Northern Ireland is yet again, at a crucial moment in its transition from conflict to peace. Your continued vigilance and support will hopefully help us move towards greater local accountability, and more human rights compliant policing and justice.

Thank you.

Mr. SMITH OF NEW JERSEY. Thank you very much, Ms. Beirne. Just to ask you a couple of questions, because all of you, in your testimonies, have really covered all the bases and provided extremely useful insights to this Subcommittee, for our Subcommittees to take even more action and to follow up on your many recommendations.

I would ask you, all of you, have you all had an opportunity to read the *Atlantic Monthly* piece which just came out? It just hit the stands. It is very, very disconcerting, and brings even more reason for concern, Ms. Beirne, as you pointed out in your testimony where the Chief Constable is reported to announce in the future the police would deal with Loyalist paramilitarism, and MI-5 would deal with Republic paramilitarism. So you will have two separate tracks being taken.

And in reading this, it just struck me as bizarre, and very, very frightening that the British agents, two of them were IRA leaders, Fred Skatapecci and Kevin Fulton. And in one case, Fulton was being interrogated, and he goes into detail about he was being interrogated not once, but twice. And it looked like on the third time, Kevin was going to be killed by Freddie, all with the full blessing and the imprimatur, if you will, of the British agents, to try to further enhance Freddie's standing among the IRA that he indeed was beyond any kind of reproach.

There is blood on the hands of these British agents in a very serious way. And to think now we may be going back to that, if we are not even out of that even now, with a very clear line of demarcation between who handles intelligence, who handles the informers, going forward.

So I think this is reason to begin raising our voices to a fever pitch, if you will, because this has problems written all over it, as you have pointed out.

Ms. Winter or Ms. Pyati, if you would want to comment on that. Because I think this is a whole area that has been under-scrutinized, at least on this side of the Atlantic, that we are moving down the wrong path in earnest.

Yes.

Ms. BEIRNE. I certainly endorse that. And to draw your attention to, as you said, Patten made several recommendations precisely because of his concern, which was reported to him by police as well as others, that the Special Branch being a unit within a unit; that there weren't sufficient safeguards.

And in fact, the OMA investigation which followed showed just how dangerous that was, that there wasn't sufficient information. And a lot of the recommendations Patten made about rotation of officers, sharing information across the units, merging Special Branch into the broader criminal operations department, all of those were intended to ensure that there would not be this isolation of that kind of investigation.

So we are building in gradually, and I would probably argue not at the speed that would be required. But we are building in those safeguards. And at that very time it is now being proposed that all of those activities be removed to a completely separate.

If there wasn't information flow between the same Royal Officer Constabulary, between different units within the same Police Service, now we are separating it out entirely. But it is very much of concern, and it would be appreciated if yourself and the Committee were able to keep a close scrutiny on that, and ask questions about that.

Mr. SMITH OF NEW JERSEY. Do I exaggerate in suggesting that this is a very ominous turn of events, that could take Northern Ireland right back down to the troubles that had so bedeviled it in the past? I mean, this seems to be an engraved invitation for the British agents to, as it said in this article, that the larger British strategy was, and I quote: "Agents have killed many, many, many, many people." And all under the guise of being somebody else, a member of the IRA, while they were informants and British agents. I think this is very ominous.

Jane?

Ms. WINTER. I wonder if I could make a very simple observation. There are really only two legitimate reasons for gathering intelligence on citizens at all. One is to prevent crime, and the other is to detect it.

And what we have seen in Northern Ireland over a very long period of time has been an abuse of the collection of intelligence, where it had been gathered for its own sake, and not used to prevent crimes or to detect them.

And our big fear is that by removing intelligence from the police in Republican cases, and giving that function to MI-5, we will indeed go right back to square one, where intelligence is collected for its own sake, rather than in order to prevent crime and to save lives. And it is as simple as that, and as important as that.

Mr. SMITH OF NEW JERSEY. Ms. Pyati?

Ms. PYATI. I would just concur with the statements made by my co-panelists, and add that in the event that there are wrongs committed after the transfer to MI-5, the lack of progress on some of the cases we have discussed that have transpired in the past is only going to make it more difficult for MI-5 to cooperate with the public if there is such lack of public confidence in its ability to con-

duct these intelligence operations without actually bridging the rights of the public in the future.

Mr. SMITH OF NEW JERSEY. Let me ask you, has anybody been held accountable for, as we all know, Dennis Donaldson was a British informer for some 20 years. As I said earlier, you know, that helped bring down the Northern Irish Assembly. I mean, it begs the larger question, was there complicity on the part of the British Government, or someone within the British Government, some agent, to cause the collapse? Or was he freelancing?

Ms. WINTER. I think you are phrasing the question that is on everybody's lips, and nobody knows the answer. And the reason we don't know the answer is because of the secrecy of the security and intelligence services. We wish we knew.

Mr. SMITH OF NEW JERSEY. Who within the British Government itself overlooks this? The House of Commons? I mean, thankfully in our system, and we are rife with our own problems in terms of secrecy, but we do have an Intelligence Committee, bipartisan, equally divided between Democrat and Republican. And when there is even a hint there is a problem, there are questions that are asked, and very serious questions. And inquiries very often made by the larger membership, as well.

Who is overseeing this? Where is the accountability?

Ms. WINTER. There is a Joint Intelligence Committee in Parliament.

Mr. SMITH OF NEW JERSEY. Have they looked at this?

Ms. WINTER. Not to my knowledge. And I believe that Northern Ireland has been a bit of a blank spot, as far as they are concerned. And I am not aware of them having ever asked any questions about any of these matters.

Mr. SMITH OF NEW JERSEY. Because again, in 2002 the Power Sharing Agreement collapsed. And the man who was at the core of that was a British spy. I think that is, if you wrote a novel that had that as its tenet, people would say now, that won't sell, it is just not believable.

And again, I would ask everyone's consent that this article in the *Atlantic Monthly* be made a part of the record. And I would like to yield to Mr. Payne.

[The information referred to follows:]

## DOUBLE BLIND

*The untold story of how British intelligence infiltrated and undermined the IRA*

BY MATTHEW TEACUE

*Photographs by Ed Kashi*

I first met the man now called Kevin Fulton in London, on Platform 13 at Victoria Station. We almost missed each other in the crowd; he didn't look at all like a terrorist.

He stood with his feet together, a short and round man with a kind face, fair hair, and blue eyes. He might have been an Irish grammar-school teacher, not an IRA bomber or a British spy in hiding. Both of which he was.

Fulton had agreed to meet only after an exchange of messages through an intermediary. Now, as we talked on the platform, he paced back and forth, scanning the faces of passersby. He checked the time, then checked it again. He spoke in an almost impenetrable brogue, and each time I leaned in to understand him, he leaned back, suspicious. He fidgeted with several mobile phones, one devoted to each of his lives. "I'm just cautious," he said.

He lives in London now, but his wife remains in Northern Ireland. He rarely goes out, for fear of bumping into the wrong person, and so leads a life of utter isolation, a forty-five-year-old man with a lot on his mind.

During the next few months, Fulton and I met several times on Platform 13. Over time his jitters settled, his speech loosened, and his past tumbled out: his rise and fall in the Irish Republican Army, his deeds and misdeeds, his loyalties and betrayals. He had served as a covert foot soldier in what has come to be called the Dirty War: a cutthroat and secret British effort to infiltrate and undermine the IRA, carried out in the shadows of the infamous Troubles. "It was a lot grayer and darker," Fulton said of the clandestine war. "Darker even than people can imagine."

But there's this: it worked. British spies subverted the IRA from within, leaving it in military ruin, and Irish Republicans—who want to end British rule in Northern Ireland and reunite the island—have largely shifted their weight to Sinn Féin and its peaceable, political efforts. And so the Dirty War provides a model for how to dismantle a terrorist organization. The trick is to not mind killing, and to expect dying.

This came clear to Kevin Fulton on the day his cover as an IRA man collapsed. It happened

inside an IRA safe house in north Belfast, in 1994. Fulton sat facing a wall, blindfolded. Curtains shut out the pale light of winter. Bottles lay scattered on the floor, and the place stank of stale beer. An interrogator paced the room, his boots scuffing against the floor. He said, "I know what you done, boyo."

He pressed a thick index finger against Fulton's temple, hard, then leaned in close to Fulton's ear and murmured a series of threats: *The IRA hunts down all snitches and executes them. Two quick bullets in the brain. Remember the boy from County Armagh who left behind the pregnant wife. Remember the boy from County Louth who left seven children mewling for a father. Remember them all.*

British authorities had recently picked up Fulton for questioning. Now the IRA, which had begun to suspect him of being a British agent, wanted to know why.

Again, the finger to the temple.

"What did you tell them?"

Fulton knew the voice, and its owner: Scap, one of the IRA's most feared interrogators. Fulton had once helped prepare safe houses for such interrogations, and knew that sometimes Scap's subjects survived. Sometimes not.

Colleagues called both men "hard bastards": true IRA boys, mothered by terrorism. They killed for the cause, time and again. But British spies had infiltrated the IRA, spreading deceit and rumors of deceit. The IRA had turned against itself. Scap couldn't say for sure who fought on his side.

The interrogation dragged on for hours. Fulton remained outwardly calm, and denied everything. Inwardly, though, he felt sick. He'd been spying on the IRA for a decade and a half, and he knew that if Scap broke him—if he admitted anything—he'd be a dead man. "Down a hole," in IRA slang.

Matthew Teague is a stone-faced, blindfolded, and facing the wall. Double blind. He held tight to his secret: yes, he was a British spy.

But then, so was his interrogator.

**A**s a boy, Freddie Scappaticci ducked and scuffled on the streets of Belfast, fighting Protestants to fit in with his Catholic friends.

His parents had immigrated to Northern Ireland in the 1920s with a wave of other Italian families and settled in the Markets area of south Belfast, where Freddie was born in 1944. The old neighborhood hummed; under historic Georgian terraces, families bustled from churches to butcher shops to apple stalls. The Scappaticcis sold ice cream and earned a reputation as "terrible nice people."

Belfast appealed more to the terrible than to the nice during Freddie Scappaticci's childhood. After thirty years of Protestant-Catholic strife, Catholics hated for Protestants had grown so powerful that it enfolded all Irish Catholics, even those with Italian parents. As tension escalated in the 1960s and the Troubles began, Scappaticci joined in school-yard brawls and street fights, and at sixteen he received the ultimate mark of credibility: Protestant police on patrol beat him severely, leaving him bruised and proud.

In 1969 the British army blundered into Northern Ireland at the request of its overwhelmed government, to stamp out Catholic and Protestant animosity once and for all. Soldiers in armored Land Rovers patrolled city streets across the country; they wore uniforms and helmets and brandished automatic rifles. They planned to bring peace to a troubled land. For a while the local population showered the troops with gratitude for helping separate the two

forming leadership and rank. Scappaticci found himself interned alongside future notable Republicans like Gerry Adams and David Morley. The old IRA leadership in Dublin—relatively tame Marxists who spent more time writing than fighting—faded away, replaced by a more ferocious guard that called itself the Provisional IRA. The older generation had huffed and puffed against Protestant discrimination, but these younger men took up arms against a larger enemy: the British army.

When Scappaticci was released, three years later, he had become a hard-shelled IRA man. He switched from bricks to bullets. His colleagues marveled at his marksmanship, and rumor has it that he killed several soldiers. At the time, the atmosphere in Belfast was like Irish potheen liquor: boiled and fermented, distilled into something potent and unlawful. Protestants flew the Union Jack and painted their curbstones red, white, and blue; Catholics flew the Irish flag and painted their curbs orange, white, and green. Men in one part of the city wore bowler hats and carried silver-knobbed canes; men just a block away wore green and carried shillelaghs. Belfast felt more British than London, and more Irish than Dublin.

The IRA swelled in power, money, and numbers. Its members executed increasingly ruthless operations against Protestant groups and British forces, but Scappaticci gradually began to notice a disturbing pattern: hot-blooded young men were sent headlong into dangerous missions, but

their leaders stayed safe  
in the pubs back home.  
And when these foot  
soldiers died or landed  
in prison, the leaders  
sometimes showed up  
around town with the  
missing men's wives.  
The leaders grew rich

on cash pressed from the tills of working-class Catholic shopkeepers and tradesmen, and they splashed it around like mobsters. To Scappaticci, their behavior seemed more like robbery than revolution.

So did the IRA's assertion that the Protestant gangs were only a tool of the "real enemy," the British occupiers. It seemed a neat trick, summoning the banshee of a dying British Empire. The Catholics could conceivably stare down the Protestants at home, but they could never beat the British at war. A campaign against the British would ensure the IRA's necessity for generations to come. Scappaticci spoke out, mouthing off at pubs, questioning the IRA leadership. One night in 1978, after an argument over IRA policy, IRA men beat him and told him to straighten up: *Don't cross the IRA.*

Scappaticci, the British intelligence services quickly recognized, had the makings of the perfect agent. A local man, born in Belfast. A credible IRA member. A disillusioned foot soldier. Beaten down. Ready.

Eventually, inevitably, an intelligence officer asked him: Would he spy?

## The Dirty War provides a model for how to dismantle a terrorist organization. The trick is to not mind killing, and to expect dying.

black-eyed factions, but soon, in pubs and cathedrals across Northern Ireland, people began whispering "occupation." The whispers grew to shouts, and shouts became hurled stones. Before long Scappaticci—who had started to go by the less-Italian name Scap—took to throwing bricks at British squads. "Freddie was full Belfast," his childhood acquaintance Victor Notarantonio remembers.

Across the city, bands of jobless young men roamed the streets looking for a cause, or an excuse. And in 1971 they found one. After several murders by the IRA, the British instituted a policy of internment without trial, sweeping hundreds of suspects off the streets and taking them to an unused air base, called Long Kesh, several miles south of Belfast. It proved a spectacular bungle. The British had relied on outdated intelligence reports and arrested many people, including Scappaticci, with only a passing connection to the IRA, while the IRA's top people received tip-offs and went into hiding.

The roundup stirred up the peaceful majority of Northern Ireland's Catholics, and many of the moderates detained by the British quickly grew into extremists behind bars. Previously scattered rebels organized themselves at Long Kesh,



**A**bout that time, in a small town called Newry, a teenage Kevin Fulton was honing his shooting skills in the countryside, hunting foxes and rabbits. Newry lies about forty miles south of Belfast, in the rolling borderland almost midway to Dublin. It's a charming little seaport, with a linen mill and a city hall that straddles the drowsy Clanrye River on a three-arched stone bridge.

Growing up in the 1970s, Fulton heard songs of rebellion and stories of derring-do. He longed for adventure. Something grander than rabbits. But his family seemed determined to cling to the dullness of a balanced life, even during the chaos of the Troubles, even in a border town. They were Catholic, yes, but not political. They attended church, not rallies. They had another son who served as a priest, instead of a soldier. They kept to themselves.

Just after his eighteenth birthday, Fulton made his way to Belfast's Grand Central Hotel, which British soldiers had sandbagged and billeted as a headquarters. There he enlisted with the British army's Royal Irish Rangers. It was an extraordinary move for a Catholic kid from a Catholic town—the British army! a miniature rebellion!—but it allowed him to shake off a sleepy home life and, as he put it, maybe "play around with guns and explosives." He expected to travel to distant lands, maybe the Falklands, and stare down foreign fighters.

He showed up for basic training, just a blue-eyed lad with no experience in the world. But his commanders saw unusual potential in him—or, rather, they heard it, in the snip and slur of his Northern Irish accent. In a matter of weeks he received a tap on the shoulder from a military intelligence officer. The British had a plan, the man said, and a proposition: Would he spy?

**A**fter the Long Kesh internment debacle, the IRA gained ground against the British. On patrol in Belfast, British soldiers dodged stones by day and firebombs by night. Troops in armored Rovers and protective helmets made no good friends; they only made good targets. They needed a better strategy, and a powerful personality to implement it. And they soon found the man for the job: Brigadier General Frank Kitson.

Kitson rolled into Northern Ireland in the early 1970s with considerable experience battling insurgencies in Kenya, Malaya, and elsewhere. He had learned valuable lessons, particularly in Kenya in the 1950s battling the Mau Mau, a band of rebels fighting for independence. He had rounded up suspected Mau Mau supporters, who then endured interrogation and torture at the hands of the British authorities. The Mau Mau couldn't match the British militarily, so they resorted to guerrilla tactics, hiding in the hills and striking from the shadows. But Kitson followed them there, recruited locals with money and idealism, and infiltrated the insurgent ranks. With layer upon layer of sabotage, subterfuge, and duplicity, he obliterated the Mau Mau.

Kitson's methods proved so effective that he wrote a now-classic counterinsurgency book, *Low Intensity Operations: Subversion, Insurgency, Peacekeeping*, which laid out principles now being followed by American forces in Iraq. By the time Kitson arrived in Northern Ireland, *Low Intensity Operations* had become his instruction manual for war there. He stayed for only about two years, but in that brief period he set a new course for the British army that, for better or worse, carried it through the Troubles. By 1978, using tactics endorsed by Kitson, the army had for years been regularly stopping

vehicles at checkpoints and randomly arresting drivers to screen them. One of the men hauled in that year was Freddie Scappaticci, fresh from his beating by the IRA.

The account of why Scappaticci entered into intelligence work—whether he was driven by a desire for vengeance after his beating or wooed by his handlers over time—varies depending who recounts it. Regardless, he entered into it with vigor, ultimately signing on to work for a secret intelligence outfit called the Force Research Unit. Through the FRU, Scappaticci served a host of agencies, among them MI5, a paramilitary police unit called Special Branch, and army intelligence. Eventually he became one of the most important spies in Britain's history, working his way toward the IRA's heart.

His handlers gave him the code name Stakeknife.

Fulton resisted British intelligence work at first. After joining the army, he was sent to Berlin for Ranger training, where he learned to follow orders, to shoot, and to work with explosives. All the while, intelligence officers hovered nearby, whispering, promising, making appeals. Finally Fulton came around.

In 1981, two years after leaving his hometown of Newry, Fulton returned. If anyone asked about his absence, he rolled up his sleeves and showed them tattoo from his brief stint as a teenager in the Merchant Marines.

Evening after evening he showed up at the Hibernian Club, where IRA men unwound in their spare time. Fulton never asked where they went, or what they did. Never asked so much as the time of day, because questions made IRA men nervous. So he faded into the walls, just another son of Newry with working-class parents and a priest for a brother. He played pool. Drank pints. Laughed at tall tales. Drank more pints. Watched. Waited.

In time, with jokes told and pints drained, Fulton became one of the boys. And after several months, it finally happened: "Kevin! C'mere, boyo. Got an errand for you."

So it started. He delivered a package—a pistol and bullets—across town. He made another delivery, then another. Always on time and dependable. The jobs escalated in subtle increments, and as his errands reached farther, the packages grew deadlier. Bullets became pipe bombs, and pipe bombs became car bombs.

In carrying out his early errands, Fulton followed instructions handed down by his handlers in British intelligence. Whenever he overheard some tidbit of valuable information, some snippet about an IRA mission, he dialed a toll-free line and arranged a meeting. Usually his handlers told him to drive to an obscure parking lot, or a spot on a country roadside, and to wait there for a white delivery van. When it arrived, a side door would fly open and Fulton would climb in, typically greeted, he told me, by men representing the various agencies he served: MI5, military, Special Branch, all working with the secret Force Research Unit—the same group handling Scappaticci. They'd speed off to a safe house, often in a grand upscale neighborhood.

If the plan ever kinked—if his cover blew and he had no time for a phone call—he would follow an emergency plan. He'd drive out of town immediately and press a button that his handlers had installed under his dash. The button would send a tracking signal to British forces, who would then sweep in and extract him to safety.

Each night Fulton rocked himself to sleep repeating the mantra his handlers had given him: "The greater good. The greater good. The greater good." He and Scappaticci engaged in a difficult mathematics, a calculus of souls. If a man kills thirty people to save 3,000, has he done right? What about thirty for 300? Or thirty for thirty-one?

At one point I asked Fulton whether, in light of the human toll he would exact in the course of his career, someone could have served the greater good by killing him as a young man. I meant the question to be rhetorical. But Fulton just nodded.

"Yes," he said.

**"You cannot pretend to be a terrorist," Fulton told me. "I had to be able to do the same thing as the IRA man next to me. Otherwise I wouldn't be there."**

In 1980, after a couple of years working as a British spy—arranging meetings, handing over tidbits—Scappaticci joined the IRA's internal security unit, which IRA men called the Nutting Squad. "Nut" is Irish slang for the head. When the Nutting Squad found a snitch or a British spy, its interrogators typically tortured him, squeezed him for information, then "nutted" him with a pair of bullets to the brain.

Scappaticci's history as an IRA sharpshooter gave him an advantage as an agent, and he quickly made his way to the top of the Nutting Squad. The achievement reveals either a tactical brilliance or a profound stroke of luck. The position gave him access to the IRA's innermost secrets: missions completed and upcoming; arms storage sites; travel and security details; bombing and assassination targets. Over several years he helped foil numerous killings and kidnappings, and the information he provided to the British so dazzled his handlers that they passed it along to Prime Minister Margaret Thatcher herself.

Moreover, his position atop the Nutting Squad made him untouchable. If the IRA leaders ever suspected an infiltration, they reported it to the Nutting Squad—and so to Scappaticci. If his own activities ever drew suspicion, he could simply divert attention by fingering an innocent man. Some British press reports estimate he killed as many as forty people. A former British spy handler who worked at the time of Scappaticci's rise—a man who now goes by the name Martin Ingram—puts the death toll lower, but still "well into the tens," including other agents. He said it all fit into the larger

British strategy. "Agents have killed, and killed, and have killed," Ingram told me. "Many, many, many people."

Under Scappaticci's close direction, the Nutting Squad killed dozens of people, including:

Seamus Morgan, 24. Abducted, shot in the head, and dumped by a road in 1982.

John Corcoran, 45. Told his shooter, "Co easy," just before a bullet entered above his left ear, from behind, in 1985. He had eight children.

Paddy Flood, 29. Held captive for two months and tortured, then killed and left on a roadside. Twelve years later, it came out that Flood's murder was a mistake; he had been innocent.

The list goes on.

Scappaticci's handlers themselves went to extremes to protect their prize agent. Take the case of Francisco Notarantonio, the father of Scappaticci's childhood acquaintance Victor. In his day, the elder Notarantonio—who had been interned with Scappaticci at Long Kesh—had enjoyed a reputation as a tough IRA man. "Even when the queen came here," Victor told me, striking a certain triumphal tone, "before the Troubles started, my father got arrested and put away for a couple of days to make sure no harm came to the queen." But by 1987, the old man had mellowed and retired, both from driving his taxi and from the IRA. About that time, a powerful Protestant gang got a description of a man working high in the IRA. The gang suspected Scappaticci and dispatched a hit squad to execute him. As the squad moved toward Scappaticci, the alarmed British directed the killers toward another Italian IRA man: old Notarantonio. Shortly thereafter, Notarantonio lay dead in his bedroom, shot to death in front of his family.

I put it to Martin Ingram, the former spy handler, that in the case of Scappaticci, the British strategy had gone amok.

"No, I don't think so," he said. "I think it went very much to schedule."

"So you think—"

"I don't *think* I know. He was acting to orders."

So the British government knew of Scappaticci's killings?

"Oh, yeah," he said. "The one preconception the IRA had is that if you are dirty—that is, if you have killed—then you cannot be an agent." Scappaticci exploited that misapprehension. "His best protection," Ingram continued, "was to keep killing."

If that's true, the British spy services beat the IRA by appealing to a belief that the United Kingdom wouldn't sacrifice its own subjects—especially its own agents.

In Belfast I met with Denis Donaldson, a Sinn Féin party leader and an IRA veteran alleged to have run the IRA's intelligence wing. He's a folk hero who led hunger strikes early in the Troubles, and British investigators say he traveled the world, cultivating terrorist contacts in Spain,

Palestine, El Salvador, and elsewhere: a hard IRA man if there ever was one.

We sat at his kitchen table as he smoked, cursing British "interference" and "collusion." We had talked for a couple of hours before I noticed that the discreet television in the corner near the ceiling wasn't a television at all. It was a security monitor, and at the moment, it showed the front door through which I had entered. I noticed, too, a wrought-iron door that sealed off the upstairs, forming a redoubt.

When I mentioned the names of Scappaticci and Fulton, Donaldson's shoulders slumped. "I still can't believe it," he said, shaking his head. "My God."

His face seemed thin and gray, the face of a man who senses an end looming. A couple of weeks after we talked, the IRA laid down its arms, defeated by a confluence of circumstances: a change in the world's view of terrorism; apparent gains made by its political partner, Sinn Féin; and the steady infiltration of British spies.



Fulton worked as a painter by day, whitewashing the pockmarked walls of County Down, Northern Ireland. But secretly he made bombs, as part of a small team of demolitions experts who operated in both Northern Ireland and the Irish Republic. Some of their bombs blew up military targets. Others blew up civilians. Fulton could sometimes sabotage missions. Often he could not.

By early 1993, Fulton and his team of bombers had found something less clumsy than wires to use in bomb and rocker detonation. They rigged bombs with photo sensors, which they triggered by popping off camera flashes. The results were lethal. Trouble was, other lights—bright headlights, or a tourist's disposable photo flash—could set off a bomb prematurely.

British intelligence services, in an effort to control IRA techniques through collaboration, secretly passed along a solution for the problem: a new technology—the infrared flash—that could be acquired only in America. Fulton's handlers offered to facilitate an undercover IRA shopping mission to New York, and an MI5 officer flew across the Atlantic on the Concorde to make arrangements with American services in advance of Fulton's arrival. "This was a terrorist organization operating in the United States," Fulton told me, and it required cooperation. "It was a pretty big thing."

Fulton traveled to New York with several thousand dollars, met secretly with his handlers, arranged the purchase, and returned to Northern Ireland, ready to create a deadly



new weapon. The IRA embraced the innovation, and it worked so well that other terrorist groups soon took notice and adapted the infrared photo-sensor bomb to their own wars. Today, Iraqi insurgents wield it against British and American troops in Iraq.

The British and American strategy—tracking insurgents by abetting them—seemed to follow a convoluted logic: that of a fighter who, trying to zero in on his opponent, waits for a few good shots to the nose. When Fulton traveled to New York with his handlers, he provided valuable inside information about the IRA's new tactics. But as each such step offered insight, it demanded another step, and another. The information came at a high price.

In Newry, for instance, not long before Fulton's trip to New York, a policewoman named Colleen McMurray and her colleague, Paul Slaine, were driving past the canal that runs through the center of town. Across the water, an IRA man triggered a flash unit, and a hidden rocket—called a "doodlebug"—burst from the grill of a car he had planted. It slammed into McMurray's car, injuring Slaine—he lost both legs in the attack—and killing McMurray on the spot.

As Fulton and I surveyed the bloody plain of his career, he said that McMurray's death was the only one he truly regretted. I asked why, and his hands traced the universal hourglass symbol for "woman." It seemed almost as though he didn't want to say it aloud: he had constructed a moral code as a bomber and spy, some unspoken list of atrocities he refused to commit, and apparently it included killing a woman.

Other people paid a price, too. Consider the case of Eoin Morley, a member of Fulton's bomb squad. After six years as a low-level IRA man, Morley quit and turned away from the IRA. Maybe he did it for the love of his girlfriend, and for her tiny children from a previous relationship. Maybe he did it because of an intra-IRA dispute. Maybe he did it because he already felt old at twenty-two.

That Easter Sunday night, Morley and his girlfriend put the children to bed and then turned their attention to a sink full of dishes. She washed, he dried. Someone knocked at the door. His girlfriend dried her hands, crossed the room, and opened the door. Two armed, masked men burst past her and grabbed Morley. They dragged him out into the garden and forced him to lie down. One of the masked men—Fulton, sources say—raised a high-powered assault rifle and shot Morley twice. The first bullet entered the back of his left thigh. Automatic rifles tend to rise as they're fired; the second bullet thumped into Morley's lower back.

As quickly as they had arrived, the men disappeared.

An ambulance took Morley to the hospital. His mother, Eilish, having gotten word of the incident, arrived soon after. Shootings were a way of life in Northern Ireland, and she expected him to rise from his bed and walk out—just like his relatives, just like his friends, just like Lazarus. But then a nurse burst into the waiting room and said, "Would you come quickly?"

Eilish moved to the door of the surgery theater, but someone stopped her at a red line painted on the floor. She wasn't sterilized and might infect the patient. Her son lay on a table in the center of the room. A doctor approached and said, "We couldn't save him. It's only a matter of minutes." She suspects now that the doctor kept her behind the line not because of infection but to spare her the sight of her son's body laid bare, bristling with instruments, tubes, wires.

Eilish told me this sitting in her living room, and throughout the story she stared at a spot on the floor just in front of her feet. Her voice strained. "I can see it here—a red line," she said. She moved her hand in the air just before her knees, as though tousling a small boy's hair. "I had to stand at that red line, and he died ... it probably took five minutes, but to me it was five hours ... I wasn't allowed over the red line."

She sat there for a long time after saying this, rousing an invisible boy's hair and staring at a nonexistent red line. At that moment, both seemed more real than anything else in Northern Ireland.

"I know what yer done, boyo."

In the Belfast safe house, in 1994, Scappaticci continued to grill Fulton. The interrogation centered on something about a van. A phone. An assassination.

Fulton had pieced it together. In addition to his work as a bomber for the IRA, he specialized in procuring supplies: electronics, weapons, vehicles. Sometimes he stole the goods; other times, as in his trip to the States, his British handlers provided them. In 1994, when the IRA's leaders needed a "basher"—a mobile phone with no traceable bill—and a clean van, they turned to Fulton. No problem. Fulton got both from his handlers, who outfitted them with snooping equipment. Not long after, the IRA attempted to kill Derek Martindale, a senior police detective; but armed officers managed to arrest the would-be assassins in their van near Martindale's home. It was Fulton's van. The IRA, suspecting that a snitch had betrayed the mission, launched a massive internal investigation.

Meanwhile, the police arrested anyone who might have been even remotely connected to the case, including Fulton. "Who do you work for?" they demanded. Fulton sat silent.

Eventually the police released him, and right away the IRA ordered him to the Belfast safe house, where Scappaticci interrogated him. A close relative of Fulton's sat in another room, also awaiting time with Scappaticci.

The interrogator prodded Fulton: "What did you tell them?"

"Nothing."

Fulton was telling the truth. He hadn't known anything about the assassination attempt.

Scappaticci didn't believe him. He suspected Fulton of being involved in more than just the Martindale betrayal, in fact.

"You provided both the phone and the vehicle used in the job. Couldn't be a coincidence."

Fulton denied everything, because he had no other choice. To confess anything—anything at all—would mean instant execution.

The denials worked. Scappaticci wasn't sure. He needed more time. So he told Fulton to come back a couple of days later for a second round of interrogation. And to bring his relative.

Right away Fulton called for a meeting with his handlers and delivered what he thought was alarming news: Scappaticci was on to him.

"Oh, we've got the inside track," they told him. "Don't worry about it."

Fulton had no choice but to return with his relative for the second interrogation. Again Scappaticci pressed him hard. Again Fulton kept up his denials. Scappaticci released Fulton again and told him to come back one more time.

As Fulton and his relative drove away, Fulton complained about having to come back for a third interrogation. The relative looked at him blankly. "What third interrogation?" A siren sounded in Fulton's head. He'd been called back for

a third round, alone. Later that day a British handler, but not his own, contacted Fulton secretly to offer a private warning. "Don't go to the last meeting," he said. "You won't go home." Fulton blew out of Belfast and went into hiding.

After several meetings on Platform 13, Fulton invited me to his home. It's an expensive flat, with heavy security, overlooking a well-known London landmark.

Inside the apartment, Fulton cooked a steak pie. While it baked, he put out laundry to dry. Then he took the plastic collar off a six-pack of canned beer and used a dainty pair of scissors to snip the rings. It's better, he said, for the "wee fish and creatures of the sea." He heard himself and grinned. "I'd make a fine housewife, wouldn't I?"

Over dinner he talked about New York, how he'd like to see it again. Outside the window, a construction crew worked near the entrance to the apartments. Fulton told me he won't go out while they're working, for fear one of them might be a boy from back home.

Some things he confesses, some he doesn't. "I can't admit to individual things," he said, for fear of prosecution. "But I won't lie to you." Over the course of our time together, he developed a winking non-denial answer: "No comment."

I asked if he had killed Eoin Morley.

"No comment."

## When the Nutting Squad found a snitch or a British spy, its interrogators typically tortured him, squeezed him for information, then "nuttied" him with a pair of bullets to the brain.

I asked if it was true that he had personally killed eleven people, not mentioning the uncounted bomb victims.

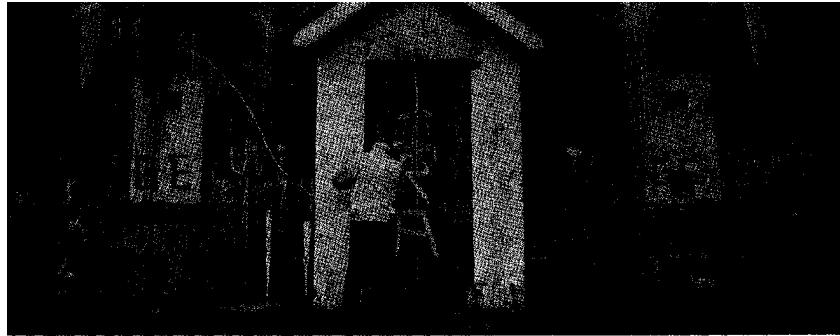
"No comment."

I asked if that bothered him.

"You cannot pretend to be a terrorist," he told me. "I had to be able to do the exact same thing as the IRA man next to me. Otherwise I wouldn't be there."

Fulton harbors complex feelings about the British spy services. His handlers in Northern Ireland abandoned him after his encounter with Scappaticci. His special toll-free number suddenly stopped working and eventually became the hotline for a forklift company. Fulton suspects that once the IRA loosed Scappaticci on him, his handlers decided he would make a good sacrifice: another mark of credibility for their prize agent, Stakeknife. His handlers betrayed him.

"He trusted the people he worked for," Jane Winter told me. She heads a human-rights organization called British Irish Rights Watch, one of the few authorities respected by people on both sides of the continuing conflict. "He believed that he was doing something that—although it was difficult and unpleasant—was necessary and right. And then he found



out the people that he trusted were not worthy of his trust. I think that must be very difficult for anybody."

Scappaticci, too, eventually fell. In 2003, Francisco Notarantonio's family instigated a police investigation that soon exposed the existence of the agent Stakeknife. Like Fulton, Scappaticci fled Northern Ireland. Rumors circulated that he had gone to Italy, specifically to a certain Hotel La Pace in Cassino, a hillside town between Naples and Rome. The manager at La Pace told me that yes, he remembered Scappaticci arriving from England, but no, he knew nothing of his next destination. That's where Freddie Scappaticci's trail goes cold.

In Belfast, I met with Scappaticci's attorney, Michael Flanagan. In a neighborhood known as an IRA stronghold, we sipped coffee in a shop that had once been a Presbyterian church. I asked about Scappaticci's career as a spy, and Flanagan shook his head. He has previously called the allegations "misinformation" and told me it was all British propaganda. The British, he said, just wanted to embarrass the IRA by pretending they had penetrated it. When I suggested that the Stakeknife affair might reflect as poorly on the British as on anyone else, he smiled.

A few weeks later, back in the United States, I received a phone call early one morning from a source in the United Kingdom. He said, "Yer man Denis Donaldson"—the legendary IRA hunger-striker who had met with me in his kitchen—"has just been expelled from Sinn Féin, about three minutes ago. For being a British spy."

Donaldson, it turned out, had been spying on the IRA for two decades.

**A**fter my last visit with Kevin Fulton, we walked through London on a route that took us past Chelsea Barracks, a sprawling compound of bunker-like brick buildings not far from Buckingham Palace. The British army has stationed soldiers there for a century and a half, but the neighborhood has changed around it, and now Londoners consider it an eyesore. The Ministry of Defense plans to move its soldiers to another base and sell Chelsea Barracks for retail development. The site has outlasted its usefulness.

Fulton feels an affinity for the place.

In 1981, early in his stint as a terrorist, the IRA bombed the barracks, killing two people and injuring more than three dozen. As he and I approached the barracks, Fulton pointed out little strips of clear tape stuck to streetlights, electrical boxes, telephone poles—anything with a hinge or slot. Each piece of tape bore a serial number, he told me, and was meant to seal a potential hiding place for a bomb.

As we passed the Chelsea Barracks entry gate, Fulton noticed a sign announcing that this was Open Day, the annual recruitment day. Over the compound's high walls, I could see little boys inside, scurrying up a recreational rock-climbing wall. Fulton's eyes flashed. "You want to go in?" he said. "Let's go in."

We wandered in. Uniformed men and women staffed booths arrayed in the courtyard. As we picked our way through the displays, Fulton began looking for members of his original regiment, the Royal Irish Rangers. "Where're the Royal Irish?" he asked passersby. "Have ye seen the Irish?" I noticed that Fulton wore a tiny green pin on his collar that read ROYAL IRISH RANGERS.

At last we saw a group of men sporting green plumes and tending a booth that featured terrorist bombs. On display were explosive devices from insurgencies around the world: Algeria, Palestine, Iraq. Fulton picked through them with a certain efficiency, looking for something. He grew more agitated by the moment. "Jaysus," he grumbled to himself. "They've got nothing from Northern Ireland here." He was searching, I realized, for his handiwork.

He strode up to a smiling, broad-shouldered soldier with red hair. "Have ye nothing from Northern Ireland?" he barked. "Nothing? Nothing a-tall, then?"

Fulton's tone, his brogue, and the keenness of his interest focused the soldier, whose smile disappeared. "No, sir," he said. "We haven't." His eyes traveled down and back up Fulton's stocky frame.

Fulton caught himself and stuffed his hands into his pockets, and he turned to walk away. "Well," he said. "If they weren't such fucking terrorists, then maybe they could have a spot, aye?" □

Mr. PAYNE. Thank you very much. I certainly appreciate your coming to the Committee. I apologize for being unable to attend. We had a President from Liberia that I was involved in a lot of the meetings that just concluded. So I really won't keep you here. I haven't heard the testimony. It is an issue, though, that I have been involved and interested in a long time.

There is no question that in order to have eventually, you know, paramilitary groups to dissolve, is when people have faith in the police. And until there is true faith in the police, policing is going to be an issue, because people won't trust the police. People will take matters into their own hands sometimes, and also feel that the police are sometimes the enemy.

And so I think it is a very, very important issue. Like I said, I do see several interesting points here, but I will not go into questioning. Like I said, I did not hear the testimony, but it is something that I think we need to continue to monitor.

The original report was unsatisfactory to me, the original Patten Report. I think that there have been some revisions, and there have been new efforts taken since that first report several years ago. I think it was still striving to a more perfect policing. But I still think that there is still a way to go.

So Mr. Chairman, thank you for allowing me to make a comment, and I will listen to any other questions you may have.

Mr. SMITH OF NEW JERSEY. Mr. Payne, thank you very much.

I do have one final question to Ms. Winter. What are some of the specific challenges the Historical Inquiries Team must overcome in order to ensure the confidence of the family members and the public? And how will they handle cases where police officers or government agents are implicated?

Ms. WINTER. I am sorry, I didn't hear the second part of your question.

Mr. SMITH OF NEW JERSEY. How will they handle cases where police officers or government agents are indeed implicated?

Ms. WINTER. I think the specific challenges that the HET face are in many ways precisely the same challenges that my own organization has faced in trying to investigate some of these older murders, in that if collusion was involved, then they may not be able to find the records that they need, the evidence that they need to properly reinvestigate.

And it remains to be seen whether their attempts, which have been considerable, to gather together in one place all the evidence that does remain in these outstanding cases will enable them to get to the truth. Whether witnesses are still alive, whether those who were involved in collusion are prepared now to talk about it and to tell the truth, those are all going to be difficulties that the HET will face.

In terms of killings that involved police officers, as I indicated, there is some concern about jurisdiction and whether those cases belong to the Police Ombudsman or to the HET, or whether they are going to have to work together. I understand that they are attempting to resolve protocols for dealing sensibly with those cases, so that they don't fall between two stools, as it were.

But inevitably where members of the security forces have been involved in a murder or in an illegal activity of any kind, I think

it is extremely difficult for even the most irreproachable police investigation to always arrive at the truth. Because the tendency is to cover up, to close ranks. And we have found that in our own investigations, although we don't have the powers of the HET. And we expect that they will encounter the same.

And the test of the HET will be can they overcome those challenges.

Mr. SMITH OF NEW JERSEY. Would any of you like to add anything before we conclude? If not, I do want to thank you again for your insight, your counsel. We have much to follow on.

Tomorrow I will be introducing the resolution again calling for the public inquiry into Patrick Finucane's murder. And we have some I think very good language that we have put into the resolution. Any ideas you might have as we go to mark-up, please let me know.

Mr. Payne.

Mr. PAYNE. Have we heard anything more, not on this particular subject, but on the investigation of the Rosemary Nelson case? Where does that stand right now?

When I visited her husband about maybe 2 years, a year and a half ago, he had not even been interviewed. And at that time the investigation had been going on for maybe a year or 2. And it was just odd that no one even bothered. So I question how serious is the investigation being carried on by the authorities.

Ms. PYATI. The investigation has been slow, and there have been complaints about that from all sides. But to my best understanding, there have been resolutions to some of the main concerns that arose in the beginning. There have been meetings with the family since then.

There was an opening hearing held on April 19, 2005. And since then, a group has been identified as the main group of witnesses that will be brought forward. And also, invitations have been sent to select individuals to serve as witnesses ahead of time, perhaps to be called before the panel publicly. And document collection has been done.

It is anticipated that the first hearing, official public hearing, will be held on January 16, 2007. That is the most recent information that I have.

So yes, there is full agreement. I mean, I couldn't disagree with you that it has been slow progress. But from what I understand now, there is a general sense that this inquiry is moving forward; that the family and others involved, all the NGOs involved, are sort of keeping their fingers crossed that things will go forward, and smoothly, and that there will be the possibility to have faith in the proceedings, full faith.

Ms. WINTER. Just to say that obviously we share your concerns about the slowness of the progress. I think that the family of Rosemary Nelson have decided that they would rather have a thorough inquiry than a quick inquiry.

And certainly, from my own personal experience of dealing with the inquiry team, because I, myself, am a potential witness in that inquiry, my experience has been they are being extremely thorough. They are really looking into everything, and that they are, I think, very conscious of the fact that there will never be another

public inquiry into Rosemary Nelson's death, and they want to get it right.

And the proof of the pudding, of course, will be when we see the actual way that the inquiry is conducted, and the final report. And the jury is out until that time. But at the moment, so far, so good, we would say.

Ms. BEIRNE. And can I just add, I think that would be fair to say for the Nelson and the Howell families are relatively reassured by the way those two inquiries have approached, the seriousness of which they have approached their work and so on. And the very obvious concerns, the immediate concerns relate to obviously the Pat Finucane case, where there is no inquiry at all, and with the Billy Wright case, where there has been a move to convert it under the Inquiries Act. His father is taking a judicial review, and fears that this is also part of the cover-up. And so those are the two cases that are immediately of concern, as has already been indicated. We will be watching the other two, but so far, so good.

Mr. PAYNE. Thank you very much. I was going to mention the Pat Finucane case, and it was another example of slowness. And really not even Bloody Sunday, it really hasn't, in my opinion, been truly investigated. I think that it was raised, and the authorities said we might take another look at it. But I think that is another situation. Until the people feel that justice is being done, they are going to have difficulty respecting the authorities and having confidence in them.

And so I would, at some other time, would even like to, although it was many years ago, for there to be a real airing of, just like in South Africa. They had to have a truth in reconciliation to bring all the facts out. That is what is needed in the Bloody Sunday incident, and the Pat Finucane and Rosemary Nelson and the other cases that you mentioned.

So thank you, Mr. Chairman, I appreciate it.

Mr. SMITH OF NEW JERSEY. Thank you, Mr. Payne, very much. And without objection, the statement by Chairman Elton Gallegly will be made a part of the record.

[The prepared statement of Mr. Gallegly follows:]

**PREPARED STATEMENT OF THE HONORABLE ELTON GALLEGLY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA, AND CHAIRMAN, SUBCOMMITTEE ON EUROPE AND EMERGING THREATS**

Thank you Mr. Chairman. I would first like to thank you for organizing this hearing and your work over the years to bring a just, lasting peace in Northern Ireland. I agree with your views, which you have articulated on many occasions, that a critical element in bringing about reconciliation between Catholics and Protestants is for both communities to have complete faith in the impartiality of the police service and criminal justice system of Northern Ireland.

Since the signing of the Good Friday Agreement in April of 1998, the issue of police reforms has been one of the main issues that has prevented that Agreement's full implementation. Simply stated, Sinn Fein still does not believe that the police reforms, most of which came out of the Patten Commission report, have not gone far enough. In addition, unlike the Social Democrat and Labor Party and the two principal Unionist parties, Sinn Fein has refused to join the Police Board, the body that oversees the Police Service of Northern Ireland, until there is a deal to revive northern Ireland's power-sharing institutions.

At the same time, the dominant Unionist party, the DUP, currently refuses to enter into power-sharing negotiations with Sinn Fein, and even refuses to negotiate directly with them. As Ambassador Reiss stated in his written testimony, the DUP

continues to harbor doubts about whether Sinn Fein and the IRA are truly committed to democracy and the rule of law.

Given the impasse in the peace talks, the riots that occurred in Protestant neighborhoods of Belfast last September, and the coming of marching season this summer, I am concerned that there is still very real possibility of more violence this year.

The United States has always played an important role in trying to bring the two sides together and reach a political settlement in Northern Ireland. Therefore, I would like each of our witnesses to address what, in their view, are the main obstacles to the full implementation of the Good Friday Agreement, and secondly, what specific action or role should the U.S. play in helping to achieve a long-lasting peace.

Lastly, I would like to commend the work of Chairman Smith, as well as full Committee Chairman Hyde, Congressman King and Congressman Walsh for their efforts on behalf of peace, justice and economic development in Northern Ireland. I would also like to personally thank each of them for working with me and my staff to try to come up with a resolution that we can all agree upon that articulates the support of the House of Representatives for the peace process in Northern Ireland.

Again, thank you Chairman Smith for organizing this hearing and for your work on this issue.

**Mr. SMITH OF NEW JERSEY.** And I think, Ms. Beirne, I think you used the word cover-up a moment ago. It does beg the question what is being hidden, what is being concealed when this enormous political loss to the United Kingdom, to Britain, in stonewalling on the Patrick Finucane case. It just begs the question, what is it that will come out that they don't want us to know, and they certainly don't want the Finucane family and the people of Northern Ireland to know.

And it is not going to go away. And if people are being protected by this who may indeed still be within the government, or perhaps in the security apparatus, that is, the longer this goes, the more dishonor it will bring to those who engaged in this cover-up.

So our admonishment to 10 Downing Street, and to the House of Commons, and to Northern Ireland's Secretary of State, and to all involved, is to cease the cover-up.

And I thank you again for being such warriors in pursuing the truth.

The hearing is adjourned.

[Whereupon, at 5:35 p.m., the Subcommittee was adjourned.]

